



913612

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

Senator Gruters moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Park Randall
'Randy' Miller Act."

Section 2. Paragraph (e) of subsection (14) of section
212.02, Florida Statutes, is amended, and paragraph (f) is added
to that subsection, to read:

212.02 Definitions.—The following terms and phrases when
used in this chapter have the meanings ascribed to them in this



913612

12 section, except where the context clearly indicates a different
13 meaning:

14 (14)

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

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

19 Section 3. Section 212.05, Florida Statutes, is amended to
20 read:

21 212.05 Sales, storage, use tax.—It is hereby declared to be
22 the legislative intent that every person is exercising a taxable
23 privilege who engages in the business of selling tangible
24 personal property at retail in this state, including the
25 business of making or facilitating remote ~~mail order~~ sales; ~~or~~
26 who rents or furnishes any of the things or services taxable
27 under this chapter; ~~or~~ or who stores for use or consumption in
28 this state any item or article of tangible personal property as
29 defined herein and who leases or rents such property within the
30 state.

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

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

39 b. Each occasional or isolated sale of an aircraft, boat,
40 mobile home, or motor vehicle of a class or type which is



913612

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

66 2. This paragraph does not apply to the sale of a boat or
67 aircraft by or through a registered dealer under this chapter to
68 a purchaser who, at the time of taking delivery, is a
69 nonresident of this state, does not make his or her permanent



913612

70 place of abode in this state, and is not engaged in carrying on
71 in this state any employment, trade, business, or profession in
72 which the boat or aircraft will be used in this state, or is a
73 corporation none of the officers or directors of which is a
74 resident of, or makes his or her permanent place of abode in,
75 this state, or is a noncorporate entity that has no individual
76 vested with authority to participate in the management,
77 direction, or control of the entity's affairs who is a resident
78 of, or makes his or her permanent abode in, this state. For
79 purposes of this exemption, either a registered dealer acting on
80 his or her own behalf as seller, a registered dealer acting as
81 broker on behalf of a seller, or a registered dealer acting as
82 broker on behalf of the purchaser may be deemed to be the
83 selling dealer. This exemption shall not be allowed unless:

84 a. The purchaser removes a qualifying boat, as described in
85 sub-subparagraph f., from the state within 90 days after the
86 date of purchase or extension, or the purchaser removes a
87 nonqualifying boat or an aircraft from this state within 10 days
88 after the date of purchase or, when the boat or aircraft is
89 repaired or altered, within 20 days after completion of the
90 repairs or alterations; or if the aircraft will be registered in
91 a foreign jurisdiction and:

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

95 (II) The purchaser removes the aircraft from the state to a
96 foreign jurisdiction within 10 days after the date the aircraft
97 is registered by the applicable foreign airworthiness authority;
98 and



913612

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

101
102 For purposes of this sub-subparagraph, the term "foreign
103 jurisdiction" means any jurisdiction outside of the United
104 States or any of its territories;

105 b. The purchaser, within 90 days from the date of
106 departure, provides the department with written proof that the
107 purchaser licensed, registered, titled, or documented the boat
108 or aircraft outside the state. If such written proof is
109 unavailable, within 90 days the purchaser shall provide proof
110 that the purchaser applied for such license, title,
111 registration, or documentation. The purchaser shall forward to
112 the department proof of title, license, registration, or
113 documentation upon receipt;

114 c. The purchaser, within 30 days after removing the boat or
115 aircraft from Florida, furnishes the department with proof of
116 removal in the form of receipts for fuel, dockage, slippage,
117 tie-down, or hangaring from outside of Florida. The information
118 so provided must clearly and specifically identify the boat or
119 aircraft;

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

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

127 f. Unless the nonresident purchaser of a boat of 5 net tons



913612

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

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

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

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

154 (IV) The department is authorized to require dealers who
155 purchase decals to file reports with the department and may
156 prescribe all necessary records by rule. All such records are



913612

157 subject to inspection by the department.

158 (V) Any dealer or his or her agent who issues a decal
159 falsely, fails to affix a decal, mismarks the expiration date of
160 a decal, or fails to properly account for decals will be
161 considered prima facie to have committed a fraudulent act to
162 evade the tax and will be liable for payment of the tax plus a
163 mandatory penalty of 200 percent of the tax, and shall be liable
164 for fine and punishment as provided by law for a conviction of a
165 misdemeanor of the first degree, as provided in s. 775.082 or s.
166 775.083.

167 (VI) Any nonresident purchaser of a boat who removes a
168 decal before permanently removing the boat from the state, or
169 defaces, changes, modifies, or alters a decal in a manner
170 affecting its expiration date before its expiration, or who
171 causes or allows the same to be done by another, will be
172 considered prima facie to have committed a fraudulent act to
173 evade the tax and will be liable for payment of the tax plus a
174 mandatory penalty of 200 percent of the tax, and shall be liable
175 for fine and punishment as provided by law for a conviction of a
176 misdemeanor of the first degree, as provided in s. 775.082 or s.
177 775.083.

178 (VII) The department is authorized to adopt rules necessary
179 to administer and enforce this subparagraph and to publish the
180 necessary forms and instructions.

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

184
185 If the purchaser fails to remove the qualifying boat from this



913612

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

202 (b) At the rate of 6 percent of the cost price of each item
203 or article of tangible personal property when the same is not
204 sold but is used, consumed, distributed, or stored for use or
205 consumption in this state; however, for tangible property
206 originally purchased exempt from tax for use exclusively for
207 lease and which is converted to the owner's own use, tax may be
208 paid on the fair market value of the property at the time of
209 conversion. If the fair market value of the property cannot be
210 determined, use tax at the time of conversion shall be based on
211 the owner's acquisition cost. Under no circumstances may the
212 aggregate amount of sales tax from leasing the property and use
213 tax due at the time of conversion be less than the total sales
214 tax that would have been due on the original acquisition cost



913612

215 paid by the owner.

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

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

222 a. If the motor vehicle is rented in Florida, the entire
223 amount of such rental is taxable, even if the vehicle is dropped
224 off in another state.

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

227 2. Except as provided in subparagraph 3., for the lease or
228 rental of a motor vehicle for a period of not less than 12
229 months, sales tax is due on the lease or rental payments if the
230 vehicle is registered in this state; provided, however, that no
231 tax shall be due if the taxpayer documents use of the motor
232 vehicle outside this state and tax is being paid on the lease or
233 rental payments in another state.

234 3. The tax imposed by this chapter does not apply to the
235 lease or rental of a commercial motor vehicle as defined in s.
236 316.003(13)(a) to one lessee or rentee for a period of not less
237 than 12 months when tax was paid on the purchase price of such
238 vehicle by the lessor. To the extent tax was paid with respect
239 to the purchase of such vehicle in another state, territory of
240 the United States, or the District of Columbia, the Florida tax
241 payable shall be reduced in accordance with the provisions of s.
242 212.06(7). This subparagraph shall only be available when the
243 lease or rental of such property is an established business or



913612

244 part of an established business or the same is incidental or
245 germane to such business.

246 (d) At the rate of 6 percent of the lease or rental price
247 paid by a lessee or rentee, or contracted or agreed to be paid
248 by a lessee or rentee, to the owner of the tangible personal
249 property.

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

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

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

256 (II) If the sale or recharge of the prepaid calling
257 arrangement does not take place at the dealer's place of
258 business, it shall be deemed to have taken place at the
259 customer's shipping address or, if no item is shipped, at the
260 customer's address or the location associated with the
261 customer's mobile telephone number.

262 (III) The sale or recharge of a prepaid calling arrangement
263 shall be treated as a sale of tangible personal property for
264 purposes of this chapter, regardless of whether a tangible item
265 evidencing such arrangement is furnished to the purchaser, and
266 such sale within this state subjects the selling dealer to the
267 jurisdiction of this state for purposes of this subsection.

268 (IV) No additional tax under this chapter or chapter 202 is
269 due or payable if a purchaser of a prepaid calling arrangement
270 who has paid tax under this chapter on the sale or recharge of
271 such arrangement applies one or more units of the prepaid
272 calling arrangement to obtain communications services as



913612

273 described in s. 202.11(9)(b)3., other services that are not
274 communications services, or products.

275 b. The installation of telecommunication and telegraphic
276 equipment.

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

281 2. Section 212.17(3), regarding credit for tax paid on
282 charges subsequently found to be worthless, is equally
283 applicable to any tax paid under this section on charges for
284 prepaid calling arrangements, telecommunication or telegraph
285 services, or electric power subsequently found to be
286 uncollectible. As used in this paragraph, the term "charges"
287 does not include any excise or similar tax levied by the Federal
288 Government, a political subdivision of this state, or a
289 municipality upon the purchase, sale, or recharge of prepaid
290 calling arrangements or upon the purchase or sale of
291 telecommunication, television system program, or telegraph
292 service or electric power, which tax is collected by the seller
293 from the purchaser.

294 (f) At the rate of 6 percent on the sale, rental, use,
295 consumption, or storage for use in this state of machines and
296 equipment, and parts and accessories therefor, used in
297 manufacturing, processing, compounding, producing, mining, or
298 quarrying personal property for sale or to be used in furnishing
299 communications, transportation, or public utility services.

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



913612

302 2. Notwithstanding other provisions of this chapter,
303 inserts of printed materials which are distributed with a
304 newspaper or magazine are a component part of the newspaper or
305 magazine, and neither the sale nor use of such inserts is
306 subject to tax when:

307 a. Printed by a newspaper or magazine publisher or
308 commercial printer and distributed as a component part of a
309 newspaper or magazine, which means that the items after being
310 printed are delivered directly to a newspaper or magazine
311 publisher by the printer for inclusion in editions of the
312 distributed newspaper or magazine;

313 b. Such publications are labeled as part of the designated
314 newspaper or magazine publication into which they are to be
315 inserted; and

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

319 (h)1. A tax is imposed at the rate of 4 percent on the
320 charges for the use of coin-operated amusement machines. The tax
321 shall be calculated by dividing the gross receipts from such
322 charges for the applicable reporting period by a divisor,
323 determined as provided in this subparagraph, to compute gross
324 taxable sales, and then subtracting gross taxable sales from
325 gross receipts to arrive at the amount of tax due. For counties
326 that do not impose a discretionary sales surtax, the divisor is
327 equal to 1.04; for counties that impose a 0.5 percent
328 discretionary sales surtax, the divisor is equal to 1.045; for
329 counties that impose a 1 percent discretionary sales surtax, the
330 divisor is equal to 1.050; and for counties that impose a 2



913612

331 percent sales surtax, the divisor is equal to 1.060. If a county
332 imposes a discretionary sales surtax that is not listed in this
333 subparagraph, the department shall make the applicable divisor
334 available in an electronic format or otherwise. Additional
335 divisors shall bear the same mathematical relationship to the
336 next higher and next lower divisors as the new surtax rate bears
337 to the next higher and next lower surtax rates for which
338 divisors have been established. When a machine is activated by a
339 slug, token, coupon, or any similar device which has been
340 purchased, the tax is on the price paid by the user of the
341 device for such device.

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

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

350 b. If the owner or lessee of the machine is also its
351 operator, he or she shall be liable for payment of the tax on
352 the purchase or lease of the machine, as well as the tax on
353 sales generated through the machine.

354 c. If the proprietor of the business where the machine is
355 located does not own the machine, he or she shall be deemed to
356 be the lessee and operator of the machine and is responsible for
357 the payment of the tax on sales, unless such responsibility is
358 otherwise provided for in a written agreement between him or her
359 and the machine owner.



913612

360 3.a. An operator of a coin-operated amusement machine may
361 not operate or cause to be operated in this state any such
362 machine until the operator has registered with the department
363 and has conspicuously displayed an identifying certificate
364 issued by the department. The identifying certificate shall be
365 issued by the department upon application from the operator. The
366 identifying certificate shall include a unique number, and the
367 certificate shall be permanently marked with the operator's
368 name, the operator's sales tax number, and the maximum number of
369 machines to be operated under the certificate. An identifying
370 certificate shall not be transferred from one operator to
371 another. The identifying certificate must be conspicuously
372 displayed on the premises where the coin-operated amusement
373 machines are being operated.

374 b. The operator of the machine must obtain an identifying
375 certificate before the machine is first operated in the state
376 and by July 1 of each year thereafter. The annual fee for each
377 certificate shall be based on the number of machines identified
378 on the application times \$30 and is due and payable upon
379 application for the identifying device. The application shall
380 contain the operator's name, sales tax number, business address
381 where the machines are being operated, and the number of
382 machines in operation at that place of business by the operator.
383 No operator may operate more machines than are listed on the
384 certificate. A new certificate is required if more machines are
385 being operated at that location than are listed on the
386 certificate. The fee for the new certificate shall be based on
387 the number of additional machines identified on the application
388 form times \$30.



913612

389 c. A penalty of \$250 per machine is imposed on the operator
390 for failing to properly obtain and display the required
391 identifying certificate. A penalty of \$250 is imposed on the
392 lessee of any machine placed in a place of business without a
393 proper current identifying certificate. Such penalties shall
394 apply in addition to all other applicable taxes, interest, and
395 penalties.

396 d. Operators of coin-operated amusement machines must
397 obtain a separate sales and use tax certificate of registration
398 for each county in which such machines are located. One sales
399 and use tax certificate of registration is sufficient for all of
400 the operator's machines within a single county.

401 4. The provisions of this paragraph do not apply to coin-
402 operated amusement machines owned and operated by churches or
403 synagogues.

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

408 6. The department may adopt rules necessary to administer
409 the provisions of this paragraph.

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

411 a. Detective, burglar protection, and other protection
412 services (NAICS National Numbers 561611, 561612, 561613, and
413 561621). Fingerprint services required under s. 790.06 or s.
414 790.062 are not subject to the tax. Any law enforcement officer,
415 as defined in s. 943.10, who is performing approved duties as
416 determined by his or her local law enforcement agency in his or
417 her capacity as a law enforcement officer, and who is subject to



913612

418 the direct and immediate command of his or her law enforcement
419 agency, and in the law enforcement officer's uniform as
420 authorized by his or her law enforcement agency, is performing
421 law enforcement and public safety services and is not performing
422 detective, burglar protection, or other protective services, if
423 the law enforcement officer is performing his or her approved
424 duties in a geographical area in which the law enforcement
425 officer has arrest jurisdiction. Such law enforcement and public
426 safety services are not subject to tax irrespective of whether
427 the duty is characterized as "extra duty," "off-duty," or
428 "secondary employment," and irrespective of whether the officer
429 is paid directly or through the officer's agency by an outside
430 source. The term "law enforcement officer" includes full-time or
431 part-time law enforcement officers, and any auxiliary law
432 enforcement officer, when such auxiliary law enforcement officer
433 is working under the direct supervision of a full-time or part-
434 time law enforcement officer.

435 b. Nonresidential cleaning, excluding cleaning of the
436 interiors of transportation equipment, and nonresidential
437 building pest control services (NAICS National Numbers 561710
438 and 561720).

439 2. As used in this paragraph, "NAICS" means those
440 classifications contained in the North American Industry
441 Classification System, as published in 2007 by the Office of
442 Management and Budget, Executive Office of the President.

443 3. Charges for detective, burglar protection, and other
444 protection security services performed in this state but used
445 outside this state are exempt from taxation. Charges for
446 detective, burglar protection, and other protection security



913612

447 services performed outside this state and used in this state are
448 subject to tax.

449 4. If a transaction involves both the sale or use of a
450 service taxable under this paragraph and the sale or use of a
451 service or any other item not taxable under this chapter, the
452 consideration paid must be separately identified and stated with
453 respect to the taxable and exempt portions of the transaction or
454 the entire transaction shall be presumed taxable. The burden
455 shall be on the seller of the service or the purchaser of the
456 service, whichever applicable, to overcome this presumption by
457 providing documentary evidence as to which portion of the
458 transaction is exempt from tax. The department is authorized to
459 adjust the amount of consideration identified as the taxable and
460 exempt portions of the transaction; however, a determination
461 that the taxable and exempt portions are inaccurately stated and
462 that the adjustment is applicable must be supported by
463 substantial competent evidence.

464 5. Each seller of services subject to sales tax pursuant to
465 this paragraph shall maintain a monthly log showing each
466 transaction for which sales tax was not collected because the
467 services meet the requirements of subparagraph 3. for out-of-
468 state use. The log must identify the purchaser's name, location
469 and mailing address, and federal employer identification number,
470 if a business, or the social security number, if an individual,
471 the service sold, the price of the service, the date of sale,
472 the reason for the exemption, and the sales invoice number. The
473 monthly log shall be maintained pursuant to the same
474 requirements and subject to the same penalties imposed for the
475 keeping of similar records pursuant to this chapter.



913612

476 (j)1. Notwithstanding any other provision of this chapter,
477 there is hereby levied a tax on the sale, use, consumption, or
478 storage for use in this state of any coin or currency, whether
479 in circulation or not, when such coin or currency:
480 a. Is not legal tender;
481 b. If legal tender, is sold, exchanged, or traded at a rate
482 in excess of its face value; or
483 c. Is sold, exchanged, or traded at a rate based on its
484 precious metal content.
485 2. Such tax shall be at a rate of 6 percent of the price at
486 which the coin or currency is sold, exchanged, or traded, except
487 that, with respect to a coin or currency which is legal tender
488 of the United States and which is sold, exchanged, or traded,
489 such tax shall not be levied.
490 3. There are exempt from this tax exchanges of coins or
491 currency which are in general circulation in, and legal tender
492 of, one nation for coins or currency which are in general
493 circulation in, and legal tender of, another nation when
494 exchanged solely for use as legal tender and at an exchange rate
495 based on the relative value of each as a medium of exchange.
496 4. With respect to any transaction that involves the sale
497 of coins or currency taxable under this paragraph in which the
498 taxable amount represented by the sale of such coins or currency
499 exceeds \$500, the entire amount represented by the sale of such
500 coins or currency is exempt from the tax imposed under this
501 paragraph. The dealer must maintain proper documentation, as
502 prescribed by rule of the department, to identify that portion
503 of a transaction which involves the sale of coins or currency
504 and is exempt under this subparagraph.



913612

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

509 (l) Florists located in this state are liable for sales tax
510 on sales to retail customers regardless of where or by whom the
511 items sold are to be delivered. Florists located in this state
512 are not liable for sales tax on payments received from other
513 florists for items delivered to customers in this state.

514 (m) Operators of game concessions or other concessionaires
515 who customarily award tangible personal property as prizes may,
516 in lieu of paying tax on the cost price of such property, pay
517 tax on 25 percent of the gross receipts from such concession
518 activity.

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

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

525 (4) The tax imposed pursuant to this chapter shall be due
526 and payable according to the algorithm provided ~~brackets set~~
527 ~~forth~~ in s. 212.12.

528 (5) Notwithstanding any other provision of this chapter,
529 the maximum amount of tax imposed under this chapter and
530 collected on each sale or use of a boat in this state may not
531 exceed \$18,000 and on each repair of a boat in this state may
532 not exceed \$60,000.

533 Section 4. Paragraph (c) of subsection (4) of section



913612

534 212.054, Florida Statutes, is amended to read:

535 212.054 Discretionary sales surtax; limitations,
536 administration, and collection.—

537 (4)

538 (c)1. Any dealer located in a county that does not impose a
539 discretionary sales surtax, any marketplace provider that is a
540 dealer under this chapter, or any person located outside this
541 state who is required to collect and remit sales tax on remote
542 sales ~~but~~ who collects the surtax due to sales of tangible
543 personal property or services delivered to a county imposing a
544 surtax ~~outside the county~~ shall remit monthly the proceeds of
545 the surtax to the department to be deposited into an account in
546 the Discretionary Sales Surtax Clearing Trust Fund which is
547 separate from the county surtax collection accounts. The
548 department shall distribute funds in this account using a
549 distribution factor determined for each county that levies a
550 surtax and multiplied by the amount of funds in the account and
551 available for distribution. The distribution factor for each
552 county equals the product of:

553 a. The county's latest official population determined
554 pursuant to s. 186.901;

555 b. The county's rate of surtax; and

556 c. The number of months the county has levied a surtax
557 during the most recent distribution period;

558
559 divided by the sum of all such products of the counties levying
560 the surtax during the most recent distribution period.

561 2. The department shall compute distribution factors for
562 eligible counties once each quarter and make appropriate



913612

563 quarterly distributions.

564 3. A county that fails to timely provide the information
565 required by this section to the department authorizes the
566 department, by such action, to use the best information
567 available to it in distributing surtax revenues to the county.
568 If this information is unavailable to the department, the
569 department may partially or entirely disqualify the county from
570 receiving surtax revenues under this paragraph. A county that
571 fails to provide timely information waives its right to
572 challenge the department's determination of the county's share,
573 if any, of revenues provided under this paragraph.

574 Section 5. Section 212.0596, Florida Statutes, is amended
575 to read:

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

578 212.0596 Taxation of remote sales.—

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

580 (a) "Remote sale" means a retail sale of tangible personal
581 property ordered by mail, telephone, the Internet, or other
582 means of communication from a person who receives the order
583 outside of this state and transports the property or causes the
584 property to be transported from any jurisdiction, including this
585 state, to a location in this state. For purposes of this
586 paragraph, tangible personal property delivered to a location
587 within this state is presumed to be used, consumed, distributed,
588 or stored to be used or consumed in this state.

589 (b) "Substantial number of remote sales" means any number
590 of taxable remote sales in the previous calendar year in which
591 the sum of the sales prices, as defined in s. 212.02(16),



913612

592 exceeded \$100,000.

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

595 (3) The department may establish by rule procedures for
596 collecting the use tax from unregistered persons who but for
597 their remote purchases would not be required to remit sales or
598 use tax directly to the department. The procedures may provide
599 for waiver of registration, provisions for irregular remittance
600 of tax, elimination of the collection allowance, and
601 nonapplication of local option surtaxes.

602 (4) A marketplace provider that is a dealer under this
603 chapter or a person who is required to collect and remit sales
604 tax on remote sales is required to collect surtax when the
605 taxable item of tangible personal property is delivered within a
606 county imposing a surtax as provided in s. 212.054(3)(a).

607 Section 6. Section 212.05965, Florida Statutes, is created
608 to read:

609 212.05965 Taxation of marketplace sales.-

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

611 (a) "Marketplace" means any physical place or electronic
612 medium through which tangible personal property is offered for
613 sale.

614 (b) "Marketplace provider" means a person who facilitates a
615 retail sale by a marketplace seller by listing or advertising
616 for sale by the marketplace seller tangible personal property in
617 a marketplace and who directly, or indirectly through agreements
618 or arrangements with third parties, collects payment from the
619 customer and transmits all or part of the payment to the
620 marketplace seller, regardless of whether the marketplace



913612

621 provider receives compensation or other consideration in
622 exchange for its services.

623 1. The term does not include a person who solely provides
624 travel agency services. As used in this subparagraph, the term
625 "travel agency services" means arranging, booking, or otherwise
626 facilitating for a commission, fee, or other consideration
627 vacation or travel packages, rental cars, or other travel
628 reservations; tickets for domestic or foreign travel by air,
629 rail, ship, bus, or other mode of transportation; or hotel or
630 other lodging accommodations.

631 2. The term does not include a person who is a delivery
632 network company unless the delivery network company is a
633 registered dealer for purposes of this chapter and the delivery
634 network company notifies all local merchants that sell through
635 the delivery network company's website or mobile application
636 that the delivery network company is subject to the requirements
637 of a marketplace provider under this section. As used in this
638 subparagraph, the term:

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

642 b. "Delivery network courier" means a person who provides
643 delivery services through a delivery network company website or
644 mobile application using a personal means of transportation,
645 such as a motor vehicle as defined in s. 320.01(1), bicycle,
646 scooter, or other similar means of transportation; using public
647 transportation; or by walking.

648 c. "Delivery services" means the pickup and delivery by a
649 delivery network courier of one or more local products from a



913612

650 local merchant to a customer, which may include the selection,
651 collection, and purchase of the local product in connection with
652 the delivery. The term does not include any delivery requiring
653 more than 75 miles of travel from the local merchant to the
654 customer.

655 d. "Local merchant" means a kitchen, a restaurant, or a
656 third-party merchant, including a grocery store, retail store,
657 convenience store, or business of another type, which is not
658 under common ownership or control of the delivery network
659 company.

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

663 3. The term does not include a payment processor business
664 that processes payment transactions from various channels, such
665 as charge cards, credit cards, or debit cards, and whose sole
666 activity with respect to marketplace sales is to process payment
667 transactions between two or more parties.

668 (c) "Marketplace seller" means a person who has an
669 agreement with a marketplace provider that is a dealer under
670 this chapter and who makes retail sales of tangible personal
671 property through a marketplace owned, operated, or controlled by
672 the marketplace provider.

673 (2) A marketplace provider that has a physical presence in
674 this state or who is making or facilitating through a
675 marketplace a substantial number of remote sales as defined in
676 s. 212.0596(1) is a dealer for purposes of this chapter.

677 (3) A marketplace provider that is a dealer under this
678 chapter shall certify to its marketplace sellers that it will



913612

679 collect and remit the tax imposed under this chapter on taxable
680 retail sales made through the marketplace. Such certification
681 may be included in the agreement between the marketplace
682 provider and the marketplace seller.

683 (4) (a) A marketplace seller may not collect and remit the
684 tax under this chapter on a taxable retail sale when the sale is
685 made through the marketplace and the marketplace provider
686 certifies, as required under subsection (3), that it will
687 collect and remit such tax. A marketplace seller shall exclude
688 such sales made through the marketplace from the marketplace
689 seller's tax return under s. 212.11.

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

694 2. A marketplace seller who is not described under
695 subparagraph 1. but who makes a substantial number of remote
696 sales as defined in s. 212.0596(1) shall register and shall
697 collect and remit the tax imposed under this chapter on all
698 taxable retail sales made outside of the marketplace. For the
699 purpose of determining whether a marketplace seller made a
700 substantial number of remote sales, the marketplace seller shall
701 consider only those sales made outside of a marketplace.

702 (5) (a) A marketplace provider that is a dealer under this
703 chapter shall allow the department to examine and audit its
704 books and records pursuant to s. 212.13. For retail sales
705 facilitated through a marketplace, the department may not
706 examine or audit the books and records of marketplace sellers,
707 nor may the department assess marketplace sellers except to the



913612

708 extent that the marketplace provider seeks relief under
709 paragraph (b). The department may examine, audit, and assess a
710 marketplace seller for retail sales made outside of a
711 marketplace under paragraph (4) (b). This paragraph does not
712 provide relief to a marketplace seller who is under audit; has
713 been issued a bill, notice, or demand for payment; or is under
714 an administrative or judicial proceeding before July 1, 2021.

715 (b) The marketplace provider is relieved of liability for
716 the tax on the retail sale and the marketplace seller or
717 customer is liable for the tax imposed under this chapter if the
718 marketplace provider demonstrates to the department's
719 satisfaction that the marketplace provider made a reasonable
720 effort to obtain accurate information related to the retail
721 sales facilitated through the marketplace from the marketplace
722 seller, but that the failure to collect and remit the correct
723 amount of tax imposed under this chapter was due to the
724 provision of incorrect or incomplete information to the
725 marketplace provider by the marketplace seller. This paragraph
726 does not apply to a retail sale for which the marketplace
727 provider is the seller if the marketplace provider and the
728 marketplace seller are related parties or if transactions
729 between a marketplace seller and marketplace buyer are not
730 conducted at arm's length.

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

733 (7) A marketplace provider and a marketplace seller may
734 agree by contract or otherwise that if a marketplace provider
735 pays the tax imposed under this chapter on a retail sale
736 facilitated through a marketplace for a marketplace seller as a



913612

737 result of an audit or otherwise, the marketplace provider has
738 the right to recover such tax and any associated interest and
739 penalties from the marketplace seller.

740 (8) This section may not be construed to authorize the
741 state to collect sales tax from both the marketplace provider
742 and the marketplace seller on the same retail sale.

743 (9) Chapter 213 applies to the administration of this
744 section to the extent that chapter does not conflict with this
745 section.

746 Section 7. Effective April 1, 2022, subsections (10) and
747 (11) are added to section 212.05965, Florida Statutes, as
748 created by this act, to read:

749 212.05965 Taxation of marketplace sales.—

750 (10) Notwithstanding any other law, the marketplace
751 provider is also responsible for collecting and remitting any
752 prepaid wireless E911 fee under s. 365.172, waste tire fee under
753 s. 403.718, and lead-acid battery fee under s. 403.7185 at the
754 time of sale for taxable retail sales made through its
755 marketplace.

756 (11) Notwithstanding paragraph (4) (a), the marketplace
757 provider and the marketplace seller may contractually agree to
758 have the marketplace seller collect and remit all applicable
759 taxes and fees if the marketplace seller:

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

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



913612

766 (c) Notifies the department in a manner prescribed by the
767 department that the marketplace seller will collect and remit
768 all applicable taxes and fees on its sales through the
769 marketplace and is liable for failure to collect or remit
770 applicable taxes and fees on its sales.

771 Section 8. Paragraph (c) of subsection (2) and paragraph
772 (a) of subsection (5) of section 212.06, Florida Statutes, are
773 amended to read:

774 212.06 Sales, storage, use tax; collectible from dealers;
775 "dealer" defined; dealers to collect from purchasers;
776 legislative intent as to scope of tax.-

777 (2)

778 (c) The term "dealer" is further defined to mean every
779 person, as used in this chapter, who sells at retail or who
780 offers for sale at retail, or who has in his or her possession
781 for sale at retail; or for use, consumption, or distribution; or
782 for storage to be used or consumed in this state, tangible
783 personal property as defined herein, including a retailer who
784 transacts a substantial number of remote sales or a marketplace
785 provider that has a physical presence in this state or that
786 makes or facilitates through its marketplace a substantial
787 number of remote sales ~~mail order sale.~~

788 (5) (a) 1. Except as provided in subparagraph 2., it is not
789 the intention of this chapter to levy a tax upon tangible
790 personal property imported, produced, or manufactured in this
791 state for export, provided that tangible personal property may
792 not be considered as being imported, produced, or manufactured
793 for export unless the importer, producer, or manufacturer
794 delivers the same to a licensed exporter for exporting or to a



913612

795 common carrier for shipment outside the state or mails the same
796 by United States mail to a destination outside the state; or, in
797 the case of aircraft being exported under their own power to a
798 destination outside the continental limits of the United States,
799 by submission to the department of a duly signed and validated
800 United States customs declaration, showing the departure of the
801 aircraft from the continental United States; and further with
802 respect to aircraft, the canceled United States registry of said
803 aircraft; or in the case of parts and equipment installed on
804 aircraft of foreign registry, by submission to the department of
805 documentation, the extent of which shall be provided by rule,
806 showing the departure of the aircraft from the continental
807 United States; nor is it the intention of this chapter to levy a
808 tax on any sale which the state is prohibited from taxing under
809 the Constitution or laws of the United States. Every retail sale
810 made to a person physically present at the time of sale shall be
811 presumed to have been delivered in this state.

812 2.a. Notwithstanding subparagraph 1., a tax is levied on
813 each sale of tangible personal property to be transported to a
814 cooperating state as defined in sub-subparagraph c., at the rate
815 specified in sub-subparagraph d. However, a Florida dealer will
816 be relieved from the requirements of collecting taxes pursuant
817 to this subparagraph if the Florida dealer obtains from the
818 purchaser an affidavit setting forth the purchaser's name,
819 address, state taxpayer identification number, and a statement
820 that the purchaser is aware of his or her state's use tax laws,
821 is a registered dealer in Florida or another state, or is
822 purchasing the tangible personal property for resale or is
823 otherwise not required to pay the tax on the transaction. The



913612

824 department may, by rule, provide a form to be used for the
825 purposes set forth herein.

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

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

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

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

842 (IV) Such state authorizes the department to audit dealers
843 within its jurisdiction who make remote ~~mail-order~~ sales that
844 are the subject of s. 212.0596, or makes arrangements deemed
845 adequate by the department for auditing them with its own
846 personnel.

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

852 c. For purposes of this subparagraph, "sales of tangible



913612

853 personal property to be transported to a cooperating state"
854 means remote ~~mail-order~~ sales to a person who is in the
855 cooperating state at the time the order is executed, from a
856 dealer who receives that order in this state.

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

862 e. The tax levied by sub-subparagraph a., when collected,
863 shall be held in the State Treasury in trust for the benefit of
864 the cooperating state and shall be paid to it at a time agreed
865 upon between the department, acting for this state, and the
866 cooperating state or the department or agency designated by it
867 to act for it; however, such payment shall in no event be made
868 later than 30 days from the last day of the calendar quarter
869 after the tax was collected. Funds held in trust for the benefit
870 of a cooperating state shall not be subject to the service
871 charges imposed by s. 215.20.

872 f. The department is authorized to perform such acts and to
873 provide such cooperation to a cooperating state with reference
874 to the tax levied by sub-subparagraph a. as is required of the
875 cooperating state by sub-subparagraph b.

876 g. In furtherance of this act, dealers selling tangible
877 personal property for delivery in another state shall make
878 available to the department, upon request of the department,
879 records of all tangible personal property so sold. Such records
880 shall include a description of the property, the name and
881 address of the purchaser, the name and address of the person to



913612

882 whom the property was sent, the purchase price of the property,
883 information regarding whether sales tax was paid in this state
884 on the purchase price, and such other information as the
885 department may by rule prescribe.

886 Section 9. Paragraph (b) of subsection (1) of section
887 212.07, Florida Statutes, is amended to read:

888 212.07 Sales, storage, use tax; tax added to purchase
889 price; dealer not to absorb; liability of purchasers who cannot
890 prove payment of the tax; penalties; general exemptions.—

891 (1)

892 (b) A resale must be in strict compliance with s. 212.18
893 and the rules and regulations adopted thereunder. A dealer who
894 makes a sale for resale that is not in strict compliance with s.
895 212.18 and the rules and regulations adopted thereunder is
896 liable for and must pay the tax. A dealer who makes a sale for
897 resale shall document the exempt nature of the transaction, as
898 established by rules adopted by the department, by retaining a
899 copy of the purchaser's resale certificate. In lieu of
900 maintaining a copy of the certificate, a dealer may document,
901 before the time of sale, an authorization number provided
902 telephonically or electronically by the department, or by such
903 other means established by rule of the department. The dealer
904 may rely on a resale certificate issued pursuant to s.
905 212.18(3)(e) ~~s. 212.18(3)(d)~~, valid at the time of receipt from
906 the purchaser, without seeking annual verification of the resale
907 certificate if the dealer makes recurring sales to a purchaser
908 in the normal course of business on a continual basis. For
909 purposes of this paragraph, "recurring sales to a purchaser in
910 the normal course of business" refers to a sale in which the



913612

911 dealer extends credit to the purchaser and records the debt as
912 an account receivable, or in which the dealer sells to a
913 purchaser who has an established cash or C.O.D. account, similar
914 to an open credit account. For purposes of this paragraph,
915 purchases are made from a selling dealer on a continual basis if
916 the selling dealer makes, in the normal course of business,
917 sales to the purchaser at least once in every 12-month period. A
918 dealer may, through the informal protest provided for in s.
919 213.21 and the rules of the department, provide the department
920 with evidence of the exempt status of a sale. Consumer
921 certificates of exemption executed by those exempt entities that
922 were registered with the department at the time of sale, resale
923 certificates provided by purchasers who were active dealers at
924 the time of sale, and verification by the department of a
925 purchaser's active dealer status at the time of sale in lieu of
926 a resale certificate shall be accepted by the department when
927 submitted during the protest period, but may not be accepted in
928 any proceeding under chapter 120 or any circuit court action
929 instituted under chapter 72.

930 Section 10. Paragraph (f) is added to subsection (4) of
931 section 212.11, Florida Statutes, to read:

932 212.11 Tax returns and regulations.—

933 (4)

934 (f) A marketplace provider that is a dealer under this
935 chapter or a person who is required to collect and remit sales
936 tax on remote sales shall file returns and pay taxes by
937 electronic means under s. 213.755.

938 Section 11. Paragraph (a) of subsection (1), paragraph (a)
939 of subsection (5), and subsections (9), (10), (11), and (14) of



913612

940 section 212.12, Florida Statutes, are amended to read:

941 212.12 Dealer's credit for collecting tax; penalties for
942 noncompliance; powers of Department of Revenue in dealing with
943 delinquents; rounding ~~brackets applicable to taxable~~
944 ~~transactions~~; records required.-

945 (1) (a) ~~1-~~ Notwithstanding any other law and for the purpose
946 of compensating persons granting licenses for and the lessors of
947 real and personal property taxed hereunder, for the purpose of
948 compensating dealers in tangible personal property, for the
949 purpose of compensating dealers providing communication services
950 and taxable services, for the purpose of compensating owners of
951 places where admissions are collected, and for the purpose of
952 compensating remitters of any taxes or fees reported on the same
953 documents utilized for the sales and use tax, as compensation
954 for the keeping of prescribed records, filing timely tax
955 returns, and the proper accounting and remitting of taxes by
956 them, such seller, person, lessor, dealer, owner, and remitter
957 ~~(except dealers who make mail order sales)~~ who files the return
958 required pursuant to s. 212.11 only by electronic means and who
959 pays the amount due on such return only by electronic means
960 shall be allowed 2.5 percent of the amount of the tax due,
961 accounted for, and remitted to the department in the form of a
962 deduction. However, if the amount of the tax due and remitted to
963 the department by electronic means for the reporting period
964 exceeds \$1,200, an allowance is not allowed for all amounts in
965 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
966 the term "electronic means" has the same meaning as provided in
967 s. 213.755(2) (c).

968 ~~2. The executive director of the department is authorized~~



913612

969 ~~to negotiate a collection allowance, pursuant to rules~~
970 ~~promulgated by the department, with a dealer who makes mail~~
971 ~~order sales. The rules of the department shall provide~~
972 ~~guidelines for establishing the collection allowance based upon~~
973 ~~the dealer's estimated costs of collecting the tax, the volume~~
974 ~~and value of the dealer's mail order sales to purchasers in this~~
975 ~~state, and the administrative and legal costs and likelihood of~~
976 ~~achieving collection of the tax absent the cooperation of the~~
977 ~~dealer. However, in no event shall the collection allowance~~
978 ~~negotiated by the executive director exceed 10 percent of the~~
979 ~~tax remitted for a reporting period.~~

980 (5) (a) The department is authorized to audit or inspect the
981 records and accounts of dealers defined herein, including audits
982 or inspections of dealers who make remote ~~mail order~~ sales ~~to~~
983 ~~the extent permitted by another state~~, and to correct by credit
984 any overpayment of tax, and, in the event of a deficiency, an
985 assessment shall be made and collected. No administrative
986 finding of fact is necessary prior to the assessment of any tax
987 deficiency.

988 (9) Taxes imposed by this chapter upon the privilege of the
989 use, consumption, storage for consumption, or sale of tangible
990 personal property, admissions, license fees, rentals,
991 ~~communication services~~, and upon the sale or use of services as
992 herein taxed shall be collected upon the basis of an addition of
993 the tax imposed by this chapter to the total price of such
994 admissions, license fees, rentals, ~~communication~~ or ~~other~~
995 services, or sale price of such article or articles that are
996 purchased, sold, or leased at any one time by or to a customer
997 or buyer; the dealer, or person charged herein, is required to



913612

998 pay a privilege tax in the amount of the tax imposed by this
999 chapter on the total of his or her gross sales of tangible
1000 personal property, admissions, license fees, and rentals, ~~and~~
1001 ~~communication services~~ or to collect a tax upon the sale or use
1002 of services, and such person or dealer shall add the tax imposed
1003 by this chapter to the price, license fee, rental, ~~or~~
1004 admissions, ~~and communication~~ or ~~other~~ services and collect the
1005 total sum from the purchaser, admittee, licensee, lessee, or
1006 consumer. ~~The department shall make available in an electronic~~
1007 ~~format or otherwise the tax amounts and the following brackets~~
1008 ~~applicable to all transactions taxable at the rate of 6 percent:~~

1009 ~~(a) On single sales of less than 10 cents, no tax shall be~~
1010 ~~added.~~

1011 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~
1012 ~~both inclusive, 1 cent shall be added for taxes.~~

1013 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~
1014 ~~inclusive, 2 cents shall be added for taxes.~~

1015 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~
1016 ~~inclusive, 3 cents shall be added for taxes.~~

1017 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~
1018 ~~inclusive, 4 cents shall be added for taxes.~~

1019 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~
1020 ~~inclusive, 5 cents shall be added for taxes.~~

1021 ~~(g) On sales in amounts from 84 cents to \$1, both~~
1022 ~~inclusive, 6 cents shall be added for taxes.~~

1023 ~~(h) On sales in amounts of more than \$1, 6 percent shall be~~
1024 ~~charged upon each dollar of price, plus the appropriate bracket~~
1025 ~~charge upon any fractional part of a dollar.~~

1026 (10) (a) A dealer must calculate the tax due on the



913612

1027 privilege of the use, consumption, storage for consumption, or
1028 sale of tangible personal property, admissions, license fees,
1029 rentals, and upon the sale or use of services, based on a
1030 rounding algorithm that meets the following criteria:

1031 1. The computation of the tax must be carried to the third
1032 decimal place.

1033 2. The tax must be rounded to the whole cent using a method
1034 that rounds up to the next cent whenever the third decimal place
1035 is greater than four.

1036 (b) A dealer may apply the rounding algorithm to the
1037 aggregate tax amount computed on all taxable items on an invoice
1038 or to the taxable amount on each individual item on the invoice
1039 ~~In counties which have adopted a discretionary sales surtax at~~
1040 ~~the rate of 1 percent, the department shall make available in an~~
1041 ~~electronic format or otherwise the tax amounts and the following~~
1042 ~~brackets applicable to all taxable transactions that would~~
1043 ~~otherwise have been transactions taxable at the rate of 6~~
1044 ~~percent:~~

1045 ~~(a) On single sales of less than 10 cents, no tax shall be~~
1046 ~~added.~~

1047 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~
1048 ~~both inclusive, 1 cent shall be added for taxes.~~

1049 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~
1050 ~~inclusive, 2 cents shall be added for taxes.~~

1051 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~
1052 ~~inclusive, 3 cents shall be added for taxes.~~

1053 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~
1054 ~~inclusive, 4 cents shall be added for taxes.~~

1055 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~



913612

1056 ~~inclusive, 5 cents shall be added for taxes.~~
1057 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~
1058 ~~inclusive, 6 cents shall be added for taxes.~~
1059 ~~(h) On sales in amounts from 86 cents to \$1, both~~
1060 ~~inclusive, 7 cents shall be added for taxes.~~
1061 ~~(i) On sales in amounts from \$1 up to, and including, the~~
1062 ~~first \$5,000 in price, 7 percent shall be charged upon each~~
1063 ~~dollar of price, plus the appropriate bracket charge upon any~~
1064 ~~fractional part of a dollar.~~
1065 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~
1066 ~~percent shall be added upon the first \$5,000 in price, and 6~~
1067 ~~percent shall be added upon each dollar of price in excess of~~
1068 ~~the first \$5,000 in price, plus the bracket charges upon any~~
1069 ~~fractional part of a dollar as provided for in subsection (9).~~
1070 ~~(11) The department shall make available in an electronic~~
1071 ~~format or otherwise the tax amounts and brackets applicable to~~
1072 ~~all taxable transactions that occur in counties that have a~~
1073 ~~surtax at a rate other than 1 percent which would otherwise have~~
1074 ~~been transactions taxable at the rate of 6 percent. Likewise,~~
1075 ~~the department shall make available in an electronic format or~~
1076 ~~otherwise the tax amounts and brackets applicable to~~
1077 ~~transactions taxable at 4.35 percent pursuant to s.~~
1078 ~~212.05(1)(e)1.c. or the applicable tax rate pursuant to s.~~
1079 ~~212.031(1) and on transactions which would otherwise have been~~
1080 ~~so taxable in counties which have adopted a discretionary sales~~
1081 ~~surtax.~~
1082 ~~(14) If it is determined upon audit that a dealer has~~
1083 ~~collected and remitted taxes by applying the applicable tax rate~~
1084 ~~to each transaction as described in subsection (9) and rounding~~



913612

1085 ~~the tax due to the nearest whole cent rather than applying the~~
1086 ~~appropriate bracket system provided by law or department rule,~~
1087 ~~the dealer shall not be held liable for additional tax, penalty,~~
1088 ~~and interest resulting from such failure if:~~

1089 ~~(a) The dealer acted in a good faith belief that rounding~~
1090 ~~to the nearest whole cent was the proper method of determining~~
1091 ~~the amount of tax due on each taxable transaction.~~

1092 ~~(b) The dealer timely reported and remitted all taxes~~
1093 ~~collected on each taxable transaction.~~

1094 ~~(c) The dealer agrees in writing to future compliance with~~
1095 ~~the laws and rules concerning brackets applicable to the~~
1096 ~~dealer's transactions.~~

1097 Section 12. Present paragraphs (c) through (f) of
1098 subsection (3) of section 212.18, Florida Statutes, are
1099 redesignated as paragraphs (d) through (g), respectively, a new
1100 paragraph (c) is added to that subsection, and present paragraph
1101 (f) of that subsection is amended, to read:

1102 212.18 Administration of law; registration of dealers;
1103 rules.-

1104 (3)

1105 (c) A marketplace provider that is a dealer under this
1106 chapter or a person who is required to collect and remit sales
1107 tax on remote sales must file with the department an application
1108 for a certificate of registration electronically.

1109 (g) ~~(f)~~ As used in this paragraph, the term "exhibitor"
1110 means a person who enters into an agreement authorizing the
1111 display of tangible personal property or services at a
1112 convention or a trade show. The following provisions apply to
1113 the registration of exhibitors as dealers under this chapter:



913612

1114 1. An exhibitor whose agreement prohibits the sale of
1115 tangible personal property or services subject to the tax
1116 imposed in this chapter is not required to register as a dealer.

1117 2. An exhibitor whose agreement provides for the sale at
1118 wholesale only of tangible personal property or services subject
1119 to the tax imposed by this chapter must obtain a resale
1120 certificate from the purchasing dealer but is not required to
1121 register as a dealer.

1122 3. An exhibitor whose agreement authorizes the retail sale
1123 of tangible personal property or services subject to the tax
1124 imposed by this chapter must register as a dealer and collect
1125 the tax on such sales.

1126 4. An exhibitor who makes a remote ~~mail-order~~ sale pursuant
1127 to s. 212.0596 must register as a dealer.

1128
1129 A person who conducts a convention or a trade show must make his
1130 or her exhibitor's agreements available to the department for
1131 inspection and copying.

1132 Section 13. Subsection (4) and paragraph (d) of subsection
1133 (6) of section 212.20, Florida Statutes, are amended to read:

1134 212.20 Funds collected, disposition; additional powers of
1135 department; operational expense; refund of taxes adjudicated
1136 unconstitutionally collected.—

1137 (4) When there has been a final adjudication that any tax
1138 pursuant to s. 212.0596 or s. 212.05965 was levied, collected,
1139 or both, contrary to the Constitution of the United States or
1140 the State Constitution, the department shall, in accordance with
1141 rules, determine, based upon claims for refund and other
1142 evidence and information, who paid such tax or taxes, and refund



913612

1143 to each such person the amount of tax paid. For purposes of this
1144 subsection, a "final adjudication" is a decision of a court of
1145 competent jurisdiction from which no appeal can be taken or from
1146 which the official or officials of this state with authority to
1147 make such decisions has or have decided not to appeal.

1148 (6) Distribution of all proceeds under this chapter and ss.
1149 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

1150 (d) The proceeds of all other taxes and fees imposed
1151 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
1152 and (2)(b) shall be distributed as follows:

1153 1. In any fiscal year, the greater of \$500 million, minus
1154 an amount equal to 4.6 percent of the proceeds of the taxes
1155 collected pursuant to chapter 201, or 5.2 percent of all other
1156 taxes and fees imposed pursuant to this chapter or remitted
1157 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
1158 monthly installments into the General Revenue Fund.

1159 2. After the distribution under subparagraph 1., 8.9744
1160 percent of the amount remitted by a sales tax dealer located
1161 within a participating county pursuant to s. 218.61 shall be
1162 transferred into the Local Government Half-cent Sales Tax
1163 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
1164 transferred shall be reduced by 0.1 percent, and the department
1165 shall distribute this amount to the Public Employees Relations
1166 Commission Trust Fund less \$5,000 each month, which shall be
1167 added to the amount calculated in subparagraph 3. and
1168 distributed accordingly.

1169 3. After the distribution under subparagraphs 1. and 2.,
1170 0.0966 percent shall be transferred to the Local Government
1171 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant



913612

1172 to s. 218.65.

1173 4. After the distributions under subparagraphs 1., 2., and
1174 3., 2.0810 percent of the available proceeds shall be
1175 transferred monthly to the Revenue Sharing Trust Fund for
1176 Counties pursuant to s. 218.215.

1177 5. After the distributions under subparagraphs 1., 2., and
1178 3., 1.3653 percent of the available proceeds shall be
1179 transferred monthly to the Revenue Sharing Trust Fund for
1180 Municipalities pursuant to s. 218.215. If the total revenue to
1181 be distributed pursuant to this subparagraph is at least as
1182 great as the amount due from the Revenue Sharing Trust Fund for
1183 Municipalities and the former Municipal Financial Assistance
1184 Trust Fund in state fiscal year 1999-2000, no municipality shall
1185 receive less than the amount due from the Revenue Sharing Trust
1186 Fund for Municipalities and the former Municipal Financial
1187 Assistance Trust Fund in state fiscal year 1999-2000. If the
1188 total proceeds to be distributed are less than the amount
1189 received in combination from the Revenue Sharing Trust Fund for
1190 Municipalities and the former Municipal Financial Assistance
1191 Trust Fund in state fiscal year 1999-2000, each municipality
1192 shall receive an amount proportionate to the amount it was due
1193 in state fiscal year 1999-2000.

1194 6. Of the remaining proceeds:

1195 a. In each fiscal year, the sum of \$29,915,500 shall be
1196 divided into as many equal parts as there are counties in the
1197 state, and one part shall be distributed to each county. The
1198 distribution among the several counties must begin each fiscal
1199 year on or before January 5th and continue monthly for a total
1200 of 4 months. If a local or special law required that any moneys



913612

1201 accruing to a county in fiscal year 1999-2000 under the then-
1202 existing provisions of s. 550.135 be paid directly to the
1203 district school board, special district, or a municipal
1204 government, such payment must continue until the local or
1205 special law is amended or repealed. The state covenants with
1206 holders of bonds or other instruments of indebtedness issued by
1207 local governments, special districts, or district school boards
1208 before July 1, 2000, that it is not the intent of this
1209 subparagraph to adversely affect the rights of those holders or
1210 relieve local governments, special districts, or district school
1211 boards of the duty to meet their obligations as a result of
1212 previous pledges or assignments or trusts entered into which
1213 obligated funds received from the distribution to county
1214 governments under then-existing s. 550.135. This distribution
1215 specifically is in lieu of funds distributed under s. 550.135
1216 before July 1, 2000.

1217 b. The department shall distribute \$166,667 monthly to each
1218 applicant certified as a facility for a new or retained
1219 professional sports franchise pursuant to s. 288.1162. Up to
1220 \$41,667 shall be distributed monthly by the department to each
1221 certified applicant as defined in s. 288.11621 for a facility
1222 for a spring training franchise. However, not more than \$416,670
1223 may be distributed monthly in the aggregate to all certified
1224 applicants for facilities for spring training franchises.
1225 Distributions begin 60 days after such certification and
1226 continue for not more than 30 years, except as otherwise
1227 provided in s. 288.11621. A certified applicant identified in
1228 this sub-subparagraph may not receive more in distributions than
1229 expended by the applicant for the public purposes provided in s.



913612

1230 288.1162(5) or s. 288.11621(3).

1231 c. Beginning 30 days after notice by the Department of
1232 Economic Opportunity to the Department of Revenue that an
1233 applicant has been certified as the professional golf hall of
1234 fame pursuant to s. 288.1168 and is open to the public, \$166,667
1235 shall be distributed monthly, for up to 300 months, to the
1236 applicant.

1237 d. Beginning 30 days after notice by the Department of
1238 Economic Opportunity to the Department of Revenue that the
1239 applicant has been certified as the International Game Fish
1240 Association World Center facility pursuant to s. 288.1169, and
1241 the facility is open to the public, \$83,333 shall be distributed
1242 monthly, for up to 168 months, to the applicant. This
1243 distribution is subject to reduction pursuant to s. 288.1169.

1244 e. The department shall distribute up to \$83,333 monthly to
1245 each certified applicant as defined in s. 288.11631 for a
1246 facility used by a single spring training franchise, or up to
1247 \$166,667 monthly to each certified applicant as defined in s.
1248 288.11631 for a facility used by more than one spring training
1249 franchise. Monthly distributions begin 60 days after such
1250 certification or July 1, 2016, whichever is later, and continue
1251 for not more than 20 years to each certified applicant as
1252 defined in s. 288.11631 for a facility used by a single spring
1253 training franchise or not more than 25 years to each certified
1254 applicant as defined in s. 288.11631 for a facility used by more
1255 than one spring training franchise. A certified applicant
1256 identified in this sub-subparagraph may not receive more in
1257 distributions than expended by the applicant for the public
1258 purposes provided in s. 288.11631(3).



913612

1259 f. Beginning 45 days after notice by the Department of
1260 Economic Opportunity to the Department of Revenue that an
1261 applicant has been approved by the Legislature and certified by
1262 the Department of Economic Opportunity under s. 288.11625 or
1263 upon a date specified by the Department of Economic Opportunity
1264 as provided under s. 288.11625(6)(d), the department shall
1265 distribute each month an amount equal to one-twelfth of the
1266 annual distribution amount certified by the Department of
1267 Economic Opportunity for the applicant. The department may not
1268 distribute more than \$13 million annually under this sub-
1269 subparagraph.

1270 g. The department shall distribute \$15,333 monthly to the
1271 State Transportation Trust Fund.

1272 h.(I) On or before July 25, 2021, August 25, 2021, and
1273 September 25, 2021, the department shall distribute \$324,533,334
1274 in each of those months to the Unemployment Compensation Trust
1275 Fund, less an adjustment for refunds issued from the General
1276 Revenue Fund pursuant to s. 443.131(3)(e)3. before making the
1277 distribution. The adjustments made by the department to the
1278 total distributions shall be equal to the total refunds made
1279 pursuant to s. 443.131(3)(e)3. If the amount of refunds to be
1280 subtracted from any single distribution exceeds the
1281 distribution, the department may not make that distribution and
1282 must subtract the remaining balance from the next distribution.

1283 (II) Beginning July 2022, and on or before the 25th day of
1284 each month, the department shall distribute \$90 million monthly
1285 to the Unemployment Compensation Trust Fund.

1286 (III) If the ending balance of the Unemployment
1287 Compensation Trust Fund exceeds \$4,071,519,600 on the last day



913612

1288 of any month, as determined from United States Department of the
1289 Treasury data, the Office of Economic and Demographic Research
1290 shall certify to the department that the ending balance of the
1291 trust fund exceeds such amount.

1292 (IV) This sub-subparagraph is repealed, and the department
1293 shall end monthly distributions under sub-sub-subparagraph (II),
1294 on the date the department receives certification under sub-sub-
1295 subparagraph (III) or December 31, 2025, whichever is earlier.

1296 7. All other proceeds must remain in the General Revenue
1297 Fund.

1298 Section 14. Paragraph (a) of subsection (1) of section
1299 443.1216, Florida Statutes, is amended to read:

1300 443.1216 Employment.—Employment, as defined in s. 443.036,
1301 is subject to this chapter under the following conditions:

1302 (1)(a) The employment subject to this chapter includes a
1303 service performed, including a service performed in interstate
1304 commerce, by:

1305 1. An officer of a corporation.

1306 2. An individual who, under the usual common-law rules
1307 applicable in determining the employer-employee relationship, is
1308 an employee. However, whenever a client, as defined in s.
1309 443.036(18), which would otherwise be designated as an employing
1310 unit has contracted with an employee leasing company to supply
1311 it with workers, those workers are considered employees of the
1312 employee leasing company. An employee leasing company may lease
1313 corporate officers of the client to the client and other workers
1314 to the client, except as prohibited by regulations of the
1315 Internal Revenue Service. Employees of an employee leasing
1316 company must be reported under the employee leasing company's



913612

1317 tax identification number and contribution rate for work
1318 performed for the employee leasing company.

1319 a. However, except for the internal employees of an
1320 employee leasing company, each employee leasing company may make
1321 a separate one-time election to report and pay contributions
1322 under the tax identification number and contribution rate for
1323 each client of the employee leasing company. Under the client
1324 method, an employee leasing company choosing this option must
1325 assign leased employees to the client company that is leasing
1326 the employees. The client method is solely a method to report
1327 and pay unemployment contributions, and, whichever method is
1328 chosen, such election may not impact any other aspect of state
1329 law. An employee leasing company that elects the client method
1330 must pay contributions at the rates assigned to each client
1331 company.

1332 (I) The election applies to all of the employee leasing
1333 company's current and future clients.

1334 (II) The employee leasing company must notify the
1335 Department of Revenue of its election by July 1, 2012, and such
1336 election applies to reports and contributions for the first
1337 quarter of the following calendar year. The notification must
1338 include:

1339 (A) A list of each client company and the unemployment
1340 account number or, if one has not yet been issued, the federal
1341 employment identification number, as established by the employee
1342 leasing company upon the election to file by client method;

1343 (B) A list of each client company's current and previous
1344 employees and their respective social security numbers for the
1345 prior 3 state fiscal years or, if the client company has not



913612

1346 been a client for the prior 3 state fiscal years, such portion
1347 of the prior 3 state fiscal years that the client company has
1348 been a client must be supplied;

1349 (C) The wage data and benefit charges associated with each
1350 client company for the prior 3 state fiscal years or, if the
1351 client company has not been a client for the prior 3 state
1352 fiscal years, such portion of the prior 3 state fiscal years
1353 that the client company has been a client must be supplied. If
1354 the client company's employment record is chargeable with
1355 benefits for less than 8 calendar quarters while being a client
1356 of the employee leasing company, the client company must pay
1357 contributions at the initial rate of 2.7 percent; and

1358 (D) The wage data and benefit charges for the prior 3 state
1359 fiscal years that cannot be associated with a client company
1360 must be reported and charged to the employee leasing company.

1361 (III) Subsequent to choosing the client method, the
1362 employee leasing company may not change its reporting method.

1363 (IV) The employee leasing company shall file a Florida
1364 Department of Revenue Employer's Quarterly Report for each
1365 client company by approved electronic means, and pay all
1366 contributions by approved electronic means.

1367 (V) For the purposes of calculating experience rates when
1368 the client method is chosen, each client's own benefit charges
1369 and wage data experience while with the employee leasing company
1370 determines each client's tax rate where the client has been a
1371 client of the employee leasing company for at least 8 calendar
1372 quarters before the election. The client company shall continue
1373 to report the nonleased employees under its tax rate.

1374 (VI) The election is binding on each client of the employee



913612

1375 leasing company for as long as a written agreement is in effect
1376 between the client and the employee leasing company pursuant to
1377 s. 468.525(3)(a). If the relationship between the employee
1378 leasing company and the client terminates, the client retains
1379 the wage and benefit history experienced under the employee
1380 leasing company.

1381 (VII) Notwithstanding which election method the employee
1382 leasing company chooses, the applicable client company is an
1383 employing unit for purposes of s. 443.071. The employee leasing
1384 company or any of its officers or agents are liable for any
1385 violation of s. 443.071 engaged in by such persons or entities.
1386 The applicable client company or any of its officers or agents
1387 are liable for any violation of s. 443.071 engaged in by such
1388 persons or entities. The employee leasing company or its
1389 applicable client company is not liable for any violation of s.
1390 443.071 engaged in by the other party or by the other party's
1391 officers or agents.

1392 (VIII) If an employee leasing company fails to select the
1393 client method of reporting not later than July 1, 2012, the
1394 entity is required to report under the employee leasing
1395 company's tax identification number and contribution rate.

1396 (IX) After an employee leasing company is licensed pursuant
1397 to part XI of chapter 468, each newly licensed entity has 30
1398 days after the date the license is granted to notify the tax
1399 collection service provider in writing of their selection of the
1400 client method. A newly licensed employee leasing company that
1401 fails to timely select reporting pursuant to the client method
1402 of reporting must report under the employee leasing company's
1403 tax identification number and contribution rate.



913612

1404 (X) Irrespective of the election, each transfer of trade or
1405 business, including workforce, or a portion thereof, between
1406 employee leasing companies is subject to the provisions of s.
1407 443.131(3)(h) ~~s. 443.131(3)(g)~~ if, at the time of the transfer,
1408 there is common ownership, management, or control between the
1409 entities.

1410 b. In addition to any other report required to be filed by
1411 law, an employee leasing company shall submit a report to the
1412 Labor Market Statistics Center within the Department of Economic
1413 Opportunity which includes each client establishment and each
1414 establishment of the leasing company, or as otherwise directed
1415 by the department. The report must include the following
1416 information for each establishment:

1417 (I) The trade or establishment name;

1418 (II) The former reemployment assistance account number, if
1419 available;

1420 (III) The former federal employer's identification number,
1421 if available;

1422 (IV) The industry code recognized and published by the
1423 United States Office of Management and Budget, if available;

1424 (V) A description of the client's primary business activity
1425 in order to verify or assign an industry code;

1426 (VI) The address of the physical location;

1427 (VII) The number of full-time and part-time employees who
1428 worked during, or received pay that was subject to reemployment
1429 assistance taxes for, the pay period including the 12th of the
1430 month for each month of the quarter;

1431 (VIII) The total wages subject to reemployment assistance
1432 taxes paid during the calendar quarter;



913612

1433 (IX) An internal identification code to uniquely identify
1434 each establishment of each client;

1435 (X) The month and year that the client entered into the
1436 contract for services; and

1437 (XI) The month and year that the client terminated the
1438 contract for services.

1439 c. The report must be submitted electronically or in a
1440 manner otherwise prescribed by the Department of Economic
1441 Opportunity in the format specified by the Bureau of Labor
1442 Statistics of the United States Department of Labor for its
1443 Multiple Worksite Report for Professional Employer
1444 Organizations. The report must be provided quarterly to the
1445 Labor Market Statistics Center within the department, or as
1446 otherwise directed by the department, and must be filed by the
1447 last day of the month immediately after the end of the calendar
1448 quarter. The information required in sub-sub-subparagraphs b.(X)
1449 and (XI) need be provided only in the quarter in which the
1450 contract to which it relates was entered into or terminated. The
1451 sum of the employment data and the sum of the wage data in this
1452 report must match the employment and wages reported in the
1453 reemployment assistance quarterly tax and wage report.

1454 d. The department shall adopt rules as necessary to
1455 administer this subparagraph, and may administer, collect,
1456 enforce, and waive the penalty imposed by s. 443.141(1)(b) for
1457 the report required by this subparagraph.

1458 e. For the purposes of this subparagraph, the term
1459 "establishment" means any location where business is conducted
1460 or where services or industrial operations are performed.

1461 3. An individual other than an individual who is an



913612

1462 employee under subparagraph 1. or subparagraph 2., who performs
1463 services for remuneration for any person:

1464 a. As an agent-driver or commission-driver engaged in
1465 distributing meat products, vegetable products, fruit products,
1466 bakery products, beverages other than milk, or laundry or
1467 drycleaning services for his or her principal.

1468 b. As a traveling or city salesperson engaged on a full-
1469 time basis in the solicitation on behalf of, and the
1470 transmission to, his or her principal of orders from
1471 wholesalers, retailers, contractors, or operators of hotels,
1472 restaurants, or other similar establishments for merchandise for
1473 resale or supplies for use in the business operations. This sub-
1474 subparagraph does not apply to an agent-driver or a commission-
1475 driver and does not apply to sideline sales activities performed
1476 on behalf of a person other than the salesperson's principal.

1477 4. The services described in subparagraph 3. are employment
1478 subject to this chapter only if:

1479 a. The contract of service contemplates that substantially
1480 all of the services are to be performed personally by the
1481 individual;

1482 b. The individual does not have a substantial investment in
1483 facilities used in connection with the services, other than
1484 facilities used for transportation; and

1485 c. The services are not in the nature of a single
1486 transaction that is not part of a continuing relationship with
1487 the person for whom the services are performed.

1488 Section 15. Effective upon becoming a law and applying
1489 retroactively to April 1, 2020, present paragraphs (f) through
1490 (k) of subsection (3) of section 443.131, Florida Statutes, are



913612

1491 redesignated as paragraphs (g) through (l), respectively, a new
1492 paragraph (f) is added to that subsection, and paragraphs (b)
1493 and (e) of that subsection are amended, to read:

1494 443.131 Contributions.—

1495 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
1496 EXPERIENCE.—

1497 (b) *Benefit ratio*.—

1498 1. As used in this paragraph, the term “annual payroll”
1499 means the calendar quarter taxable payroll reported to the tax
1500 collection service provider for the quarters used in computing
1501 the benefit ratio. The term does not include a penalty resulting
1502 from the untimely filing of required wage and tax reports. All
1503 of the taxable payroll reported to the tax collection service
1504 provider by the end of the quarter preceding the quarter for
1505 which the contribution rate is to be computed must be used in
1506 the computation.

1507 2. As used in this paragraph, the term “benefits charged to
1508 the employer’s employment record” means the amount of benefits
1509 paid to individuals multiplied by:

1510 a. For benefits paid prior to July 1, 2007, 1.

1511 b. For benefits paid during the period beginning on July 1,
1512 2007, and ending March 31, 2011, 0.90.

1513 c. For benefits paid after March 31, 2011, 1.

1514 d. For benefits paid during the period beginning April 1,
1515 2020, and ending December 31, 2020, 0.

1516 e. For benefits paid during the period beginning January 1,
1517 2021, and ending June 30, 2021, 1, except as otherwise adjusted
1518 in accordance with paragraph (f).

1519 3. For each calendar year, the tax collection service



913612

1520 provider shall compute a benefit ratio for each employer whose
1521 employment record was chargeable for benefits during the 12
1522 consecutive quarters ending June 30 of the calendar year
1523 preceding the calendar year for which the benefit ratio is
1524 computed. An employer's benefit ratio is the quotient obtained
1525 by dividing the total benefits charged to the employer's
1526 employment record during the 3-year period ending June 30 of the
1527 preceding calendar year by the total of the employer's annual
1528 payroll for the 3-year period ending June 30 of the preceding
1529 calendar year. The benefit ratio shall be computed to the fifth
1530 decimal place and rounded to the fourth decimal place.

1531 4. The tax collection service provider shall compute a
1532 benefit ratio for each employer who was not previously eligible
1533 under subparagraph 3., whose contribution rate is set at the
1534 initial contribution rate in paragraph (2)(a), and whose
1535 employment record was chargeable for benefits during at least 8
1536 calendar quarters immediately preceding the calendar quarter for
1537 which the benefit ratio is computed. The employer's benefit
1538 ratio is the quotient obtained by dividing the total benefits
1539 charged to the employer's employment record during the first 6
1540 of the 8 completed calendar quarters immediately preceding the
1541 calendar quarter for which the benefit ratio is computed by the
1542 total of the employer's annual payroll during the first 7 of the
1543 9 completed calendar quarters immediately preceding the calendar
1544 quarter for which the benefit ratio is computed. The benefit
1545 ratio shall be computed to the fifth decimal place and rounded
1546 to the fourth decimal place and applies for the remainder of the
1547 calendar year. The employer must subsequently be rated on an
1548 annual basis using up to 12 calendar quarters of benefits



913612

1549 charged and up to 12 calendar quarters of annual payroll. That
1550 employer's benefit ratio is the quotient obtained by dividing
1551 the total benefits charged to the employer's employment record
1552 by the total of the employer's annual payroll during the
1553 quarters used in his or her first computation plus the
1554 subsequent quarters reported through June 30 of the preceding
1555 calendar year. Each subsequent calendar year, the rate shall be
1556 computed under subparagraph 3. The tax collection service
1557 provider shall assign a variation from the standard rate of
1558 contributions in paragraph (c) on a quarterly basis to each
1559 eligible employer in the same manner as an assignment for a
1560 calendar year under paragraph (e).

1561 (e) *Assignment of variations from the standard rate.*—

1562 1. As used in this paragraph, the terms "total benefit
1563 payments," "benefits paid to an individual," and "benefits
1564 charged to the employment record of an employer" mean the amount
1565 of benefits paid to individuals multiplied by:

1566 a. For benefits paid prior to July 1, 2007, 1.

1567 b. For benefits paid during the period beginning on July 1,
1568 2007, and ending March 31, 2011, 0.90.

1569 c. For benefits paid after March 31, 2011, 1.

1570 d. For benefits paid during the period beginning April 1,
1571 2020, and ending December 31, 2020, 0.

1572 e. For benefits paid during the period beginning January 1,
1573 2021, and ending June 30, 2021, 1, except as otherwise adjusted
1574 in accordance with paragraph (f).

1575 2. For the calculation of contribution rates effective
1576 January 1, 2012, and thereafter:

1577 a. The tax collection service provider shall assign a



913612

1578 variation from the standard rate of contributions for each
1579 calendar year to each eligible employer. In determining the
1580 contribution rate, varying from the standard rate to be assigned
1581 each employer, adjustment factors computed under sub-sub-
1582 subparagraphs (I)-(IV) are added to the benefit ratio. This
1583 addition shall be accomplished in two steps by adding a variable
1584 adjustment factor and a final adjustment factor. The sum of
1585 these adjustment factors computed under sub-sub-subparagraphs
1586 (I)-(IV) shall first be algebraically summed. The sum of these
1587 adjustment factors shall next be divided by a gross benefit
1588 ratio determined as follows: Total benefit payments for the 3-
1589 year period described in subparagraph (b)3. are charged to
1590 employers eligible for a variation from the standard rate, minus
1591 excess payments for the same period, divided by taxable payroll
1592 entering into the computation of individual benefit ratios for
1593 the calendar year for which the contribution rate is being
1594 computed. The ratio of the sum of the adjustment factors
1595 computed under sub-sub-subparagraphs (I)-(IV) to the gross
1596 benefit ratio is multiplied by each individual benefit ratio
1597 that is less than the maximum contribution rate to obtain
1598 variable adjustment factors; except that if the sum of an
1599 employer's individual benefit ratio and variable adjustment
1600 factor exceeds the maximum contribution rate, the variable
1601 adjustment factor is reduced in order for the sum to equal the
1602 maximum contribution rate. The variable adjustment factor for
1603 each of these employers is multiplied by his or her taxable
1604 payroll entering into the computation of his or her benefit
1605 ratio. The sum of these products is divided by the taxable
1606 payroll of the employers who entered into the computation of



913612

1607 their benefit ratios. The resulting ratio is subtracted from the
1608 sum of the adjustment factors computed under sub-sub-
1609 subparagraphs (I)-(IV) to obtain the final adjustment factor.
1610 The variable adjustment factors and the final adjustment factor
1611 must be computed to five decimal places and rounded to the
1612 fourth decimal place. This final adjustment factor is added to
1613 the variable adjustment factor and benefit ratio of each
1614 employer to obtain each employer's contribution rate. An
1615 employer's contribution rate may not, however, be rounded to
1616 less than 0.1 percent. In determining the contribution rate,
1617 varying from the standard rate to be assigned, the computation
1618 shall exclude any benefit that is excluded by the multipliers
1619 under subparagraph (b)2. and subparagraph 1. The computation of
1620 the contribution rate, varying from the standard rate to be
1621 assigned, shall also exclude any benefit paid as a result of a
1622 governmental order related to COVID-19 to close or reduce
1623 capacity of a business. In addition, the contribution rate for
1624 the 2021 and 2022 calendar years shall be calculated without the
1625 application of the positive adjustment factor in sub-sub-
1626 subparagraph (III).

1627 (I) An adjustment factor for noncharge benefits is computed
1628 to the fifth decimal place and rounded to the fourth decimal
1629 place by dividing the amount of noncharge benefits during the 3-
1630 year period described in subparagraph (b)3. by the taxable
1631 payroll of employers eligible for a variation from the standard
1632 rate who have a benefit ratio for the current year which is less
1633 than the maximum contribution rate. For purposes of computing
1634 this adjustment factor, the taxable payroll of these employers
1635 is the taxable payrolls for the 3 years ending June 30 of the



913612

1636 current calendar year as reported to the tax collection service
1637 provider by September 30 of the same calendar year. As used in
1638 this sub-sub-subparagraph, the term "noncharge benefits" means
1639 benefits paid to an individual, as adjusted pursuant to
1640 subparagraph (b)2. and subparagraph 1., from the Unemployment
1641 Compensation Trust Fund, ~~but~~ which were not charged to the
1642 employment record of any employer, but excluding any benefit
1643 paid as a result of a governmental order related to COVID-19 to
1644 close or reduce capacity of a business.

1645 (II) An adjustment factor for excess payments is computed
1646 to the fifth decimal place, and rounded to the fourth decimal
1647 place by dividing the total excess payments during the 3-year
1648 period described in subparagraph (b)3. by the taxable payroll of
1649 employers eligible for a variation from the standard rate who
1650 have a benefit ratio for the current year which is less than the
1651 maximum contribution rate. For purposes of computing this
1652 adjustment factor, the taxable payroll of these employers is the
1653 same figure used to compute the adjustment factor for noncharge
1654 benefits under sub-sub-subparagraph (I). As used in this sub-
1655 subparagraph, the term "excess payments" means the amount of
1656 benefits charged to the employment record of an employer, as
1657 adjusted pursuant to subparagraph (b)2. and subparagraph 1.,
1658 during the 3-year period described in subparagraph (b)3., but
1659 excluding any benefit paid as a result of a governmental order
1660 related to COVID-19 to close or reduce capacity of a business,
1661 less the product of the maximum contribution rate and the
1662 employer's taxable payroll for the 3 years ending June 30 of the
1663 current calendar year as reported to the tax collection service
1664 provider by September 30 of the same calendar year. As used in



913612

1665 this sub-sub-subparagraph, the term "total excess payments"
1666 means the sum of the individual employer excess payments for
1667 those employers that were eligible for assignment of a
1668 contribution rate different from the standard rate.

1669 (III) With respect to computing a positive adjustment
1670 factor:

1671 (A) Beginning January 1, 2012, if the balance of the
1672 Unemployment Compensation Trust Fund on September 30 of the
1673 calendar year immediately preceding the calendar year for which
1674 the contribution rate is being computed is less than 4 percent
1675 of the taxable payrolls for the year ending June 30 as reported
1676 to the tax collection service provider by September 30 of that
1677 calendar year, a positive adjustment factor shall be computed.
1678 The positive adjustment factor is computed annually to the fifth
1679 decimal place and rounded to the fourth decimal place by
1680 dividing the sum of the total taxable payrolls for the year
1681 ending June 30 of the current calendar year as reported to the
1682 tax collection service provider by September 30 of that calendar
1683 year into a sum equal to one-fifth of the difference between the
1684 balance of the fund as of September 30 of that calendar year and
1685 the sum of 5 percent of the total taxable payrolls for that
1686 year. The positive adjustment factor remains in effect for
1687 subsequent years until the balance of the Unemployment
1688 Compensation Trust Fund as of September 30 of the year
1689 immediately preceding the effective date of the contribution
1690 rate equals or exceeds 4 percent of the taxable payrolls for the
1691 year ending June 30 of the current calendar year as reported to
1692 the tax collection service provider by September 30 of that
1693 calendar year.



913612

1694 (B) Beginning January 1, 2018, and for each year
1695 thereafter, the positive adjustment shall be computed by
1696 dividing the sum of the total taxable payrolls for the year
1697 ending June 30 of the current calendar year as reported to the
1698 tax collection service provider by September 30 of that calendar
1699 year into a sum equal to one-fourth of the difference between
1700 the balance of the fund as of September 30 of that calendar year
1701 and the sum of 5 percent of the total taxable payrolls for that
1702 year. The positive adjustment factor remains in effect for
1703 subsequent years until the balance of the Unemployment
1704 Compensation Trust Fund as of September 30 of the year
1705 immediately preceding the effective date of the contribution
1706 rate equals or exceeds 4 percent of the taxable payrolls for the
1707 year ending June 30 of the current calendar year as reported to
1708 the tax collection service provider by September 30 of that
1709 calendar year.

1710 (IV) If, beginning January 1, 2015, and each year
1711 thereafter, the balance of the Unemployment Compensation Trust
1712 Fund as of September 30 of the year immediately preceding the
1713 calendar year for which the contribution rate is being computed
1714 exceeds 5 percent of the taxable payrolls for the year ending
1715 June 30 of the current calendar year as reported to the tax
1716 collection service provider by September 30 of that calendar
1717 year, a negative adjustment factor must be computed. The
1718 negative adjustment factor shall be computed annually beginning
1719 on January 1, 2015, and each year thereafter, to the fifth
1720 decimal place and rounded to the fourth decimal place by
1721 dividing the sum of the total taxable payrolls for the year
1722 ending June 30 of the current calendar year as reported to the



913612

1723 tax collection service provider by September 30 of the calendar
1724 year into a sum equal to one-fourth of the difference between
1725 the balance of the fund as of September 30 of the current
1726 calendar year and 5 percent of the total taxable payrolls of
1727 that year. The negative adjustment factor remains in effect for
1728 subsequent years until the balance of the Unemployment
1729 Compensation Trust Fund as of September 30 of the year
1730 immediately preceding the effective date of the contribution
1731 rate is less than 5 percent, but more than 4 percent of the
1732 taxable payrolls for the year ending June 30 of the current
1733 calendar year as reported to the tax collection service provider
1734 by September 30 of that calendar year. The negative adjustment
1735 authorized by this section is suspended in any calendar year in
1736 which repayment of the principal amount of an advance received
1737 from the federal Unemployment Compensation Trust Fund under 42
1738 U.S.C. s. 1321 is due to the Federal Government.

1739 (V) The maximum contribution rate that may be assigned to
1740 an employer is 5.4 percent, except employers participating in an
1741 approved short-time compensation plan may be assigned a maximum
1742 contribution rate that is 1 percent greater than the maximum
1743 contribution rate for other employers in any calendar year in
1744 which short-time compensation benefits are charged to the
1745 employer's employment record.

1746 (VI) As used in this subsection, "taxable payroll" shall be
1747 determined by excluding any part of the remuneration paid to an
1748 individual by an employer for employment during a calendar year
1749 in excess of the first \$7,000. Beginning January 1, 2012,
1750 "taxable payroll" shall be determined by excluding any part of
1751 the remuneration paid to an individual by an employer for



913612

1752 employment during a calendar year as described in s.
1753 443.1217(2). For the purposes of the employer rate calculation
1754 that will take effect in January 1, 2012, and in January 1,
1755 2013, the tax collection service provider shall use the data
1756 available for taxable payroll from 2009 based on excluding any
1757 part of the remuneration paid to an individual by an employer
1758 for employment during a calendar year in excess of the first
1759 \$7,000, and from 2010 and 2011, the data available for taxable
1760 payroll based on excluding any part of the remuneration paid to
1761 an individual by an employer for employment during a calendar
1762 year in excess of the first \$8,500.

1763 b. If the transfer of an employer's employment record to an
1764 employing unit under paragraph (g) ~~(f)~~ which, before the
1765 transfer, was an employer, the tax collection service provider
1766 shall recompute a benefit ratio for the successor employer based
1767 on the combined employment records and reassign an appropriate
1768 contribution rate to the successor employer effective on the
1769 first day of the calendar quarter immediately after the
1770 effective date of the transfer.

1771 3. The tax collection service provider shall reissue rates
1772 for the 2021 calendar year. However, an employer shall continue
1773 to timely file its employer's quarterly reports and pay the
1774 contributions due in a timely manner in accordance with the
1775 rules of the Department of Economic Opportunity. The Department
1776 of Revenue shall post the revised rates on its website to enable
1777 employers to securely review the revised rates. For
1778 contributions for the first quarter of the 2021 calendar year,
1779 if any employer remits to the tax collection service provider an
1780 amount in excess of the amount that would be due as calculated



913612

1781 pursuant to this paragraph, the tax collection service provider
1782 shall refund the excess amount from the amount erroneously
1783 collected. Notwithstanding s. 443.141(6), refunds issued through
1784 August 31, 2021, for first quarter 2021 contributions must be
1785 paid from the General Revenue Fund.

1786 4. The tax collection service provider shall calculate and
1787 assign contribution rates effective January 1, 2022, through
1788 December 31, 2022, excluding any benefit charge that is excluded
1789 by the multipliers under subparagraph (b)2. and subparagraph 1.;
1790 without the application of the positive adjustment factor in
1791 sub-sub-subparagraph 2.a.(III); and without the inclusion of any
1792 benefit charge directly related to COVID-19 as a result of a
1793 governmental order to close or reduce capacity of a business, as
1794 determined by the Department of Economic Opportunity, for each
1795 employer who is eligible for a variation from the standard rate
1796 pursuant to paragraph (d). The Department of Economic
1797 Opportunity shall provide the tax collection service provider
1798 with all necessary benefit charge information by August 1, 2021,
1799 including specific information for adjustments related to COVID-
1800 19 charges resulting from a governmental order to close or
1801 reduce capacity of a business, to enable the tax collection
1802 service provider to calculate and issue tax rates effective
1803 January 1, 2022. The tax collection service provider shall
1804 calculate and post rates for the 2022 calendar year by March 1,
1805 2022.

1806 5. Subject to subparagraph 6., the tax collection service
1807 provider shall calculate and assign contribution rates effective
1808 January 1, 2023, through December 31, 2025, excluding any
1809 benefit charge that is excluded by the multipliers under



913612

1810 subparagraph (b)2. and subparagraph 1.; without the application
1811 of the positive adjustment factor in sub-sub-subparagraph
1812 2.a.(III); and without the inclusion of any benefit charge
1813 directly related to COVID-19 as a result of a governmental order
1814 to close or reduce capacity of a business, as determined by the
1815 Department of Economic Opportunity, for each employer who is
1816 eligible for a variation from the standard rate pursuant to
1817 paragraph (d). The Department of Economic Opportunity shall
1818 provide the tax collection service provider with all necessary
1819 benefit charge information by August 1 of each year, including
1820 specific information for adjustments related to COVID-19 charges
1821 resulting from a governmental order to close or reduce capacity
1822 of a business, to enable the tax collection service provider to
1823 calculate and issue tax rates effective the following January.

1824 6. If the balance of the Unemployment Compensation Trust
1825 Fund on June 30 of any year exceeds \$4,071,519,600, subparagraph
1826 5. is repealed for rates effective the following years. The
1827 Office of Economic and Demographic Research shall advise the tax
1828 collection service provider of the balance of the trust fund on
1829 June 30 by August 1 of that year. After the repeal of
1830 subparagraph 5. and notwithstanding the dates specified in that
1831 subparagraph, the tax collection service provider shall
1832 calculate and assign contribution rates for each subsequent
1833 calendar year as otherwise provided in this section.

1834 (f) *Adjustment in benefit ratio multiplier.*—For purposes of
1835 calculating the benefits charged for the period beginning
1836 January 1, 2021, and ending June 30, 2021, pursuant to sub-
1837 subparagraphs (b)2.e. and (e)1.e., the amount of benefits paid
1838 to individuals shall be multiplied by 1, unless such calculation



913612

1839 results in estimated total contributions of more than \$475.5
1840 million for calendar year 2022 as estimated by the Office of
1841 Economic and Demographic Research, based on the preliminary 2022
1842 computed rate. If the estimated total contributions calculated
1843 are more than \$475.5 million, the multiplier in sub-
1844 subparagraphs (b)2.e. and (e)1.e. shall be reduced by increments
1845 of 0.05 until the estimated total contributions are \$475.5
1846 million or less. The Office of Economic and Demographic Research
1847 shall provide the incremental reduction, if any, to the tax
1848 collection service provider by January 1, 2022.

1849 Section 16. Subsection (1) of section 443.191, Florida
1850 Statutes, is amended to read:

1851 443.191 Unemployment Compensation Trust Fund; establishment
1852 and control.—

1853 (1) There is established, as a separate trust fund apart
1854 from all other public funds of this state, an Unemployment
1855 Compensation Trust Fund, which shall be administered by the
1856 Department of Economic Opportunity exclusively for the purposes
1857 of this chapter. The fund must consist of:

1858 (a) All contributions and reimbursements collected under
1859 this chapter;

1860 (b) Interest earned on any moneys in the fund;

1861 (c) Any property or securities acquired through the use of
1862 moneys belonging to the fund;

1863 (d) All earnings of these properties or securities;

1864 (e) All money credited to this state's account in the
1865 federal Unemployment Compensation Trust Fund under 42 U.S.C. s.
1866 1103;

1867 (f) All money collected for penalties imposed pursuant to



913612

1868 s. 443.151(6) (a); ~~and~~

1869 (g) Advances on the amount in the federal Unemployment
1870 Compensation Trust Fund credited to the state under 42 U.S.C. s.
1871 1321, as requested by the Governor or the Governor's designee;
1872 and

1873 (h) All money deposited in this account as a distribution
1874 pursuant to s. 212.20(6) (d) 6.h.

1875

1876 Except as otherwise provided in s. 443.1313(4), all moneys in
1877 the fund must be mingled and undivided.

1878 Section 17. Paragraph (b) of subsection (1) of section
1879 212.04, Florida Statutes, is amended to read:

1880 212.04 Admissions tax; rate, procedure, enforcement.-

1881 (1)

1882 (b) For the exercise of such privilege, a tax is levied at
1883 the rate of 6 percent of sales price, or the actual value
1884 received from such admissions, which 6 percent shall be added to
1885 and collected with all such admissions from the purchaser
1886 thereof, and such tax shall be paid for the exercise of the
1887 privilege as defined in the preceding paragraph. Each ticket
1888 must show on its face the actual sales price of the admission,
1889 or each dealer selling the admission must prominently display at
1890 the box office or other place where the admission charge is made
1891 a notice disclosing the price of the admission, and the tax
1892 shall be computed and collected on the basis of the actual price
1893 of the admission charged by the dealer. The sale price or actual
1894 value of admission shall, for the purpose of this chapter, be
1895 that price remaining after deduction of federal taxes and state
1896 or locally imposed or authorized seat surcharges, taxes, or



913612

1897 fees, if any, imposed upon such admission. The sale price or
1898 actual value does not include separately stated ticket service
1899 charges that are imposed by a facility ticket office or a
1900 ticketing service and added to a separately stated, established
1901 ticket price. The rate of tax on each admission shall be
1902 according to the algorithm provided in s. 212.12 ~~brackets~~
1903 ~~established by s. 212.12(9)~~.

1904 Section 18. Subsection (6) of section 212.0506, Florida
1905 Statutes, is amended to read:

1906 212.0506 Taxation of service warranties.—

1907 (6) This tax shall be due and payable according to the
1908 algorithm provided ~~brackets set forth~~ in s. 212.12.

1909 Section 19. Subsection (3) of section 213.015, Florida
1910 Statutes, is amended to read:

1911 213.015 Taxpayer rights.—There is created a Florida
1912 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
1913 and property of Florida taxpayers are adequately safeguarded and
1914 protected during tax assessment, collection, and enforcement
1915 processes administered under the revenue laws of this state. The
1916 Taxpayer's Bill of Rights compiles, in one document, brief but
1917 comprehensive statements which explain, in simple, nontechnical
1918 terms, the rights and obligations of the Department of Revenue
1919 and taxpayers. Section 192.0105 provides additional rights
1920 afforded to payors of property taxes and assessments. The rights
1921 afforded taxpayers to ensure that their privacy and property are
1922 safeguarded and protected during tax assessment and collection
1923 are available only insofar as they are implemented in other
1924 parts of the Florida Statutes or rules of the Department of
1925 Revenue. The rights so guaranteed Florida taxpayers in the



913612

1926 Florida Statutes and the departmental rules are:

1927 (3) The right to be represented or advised by counsel or
1928 other qualified representatives at any time in administrative
1929 interactions with the department, the right to procedural
1930 safeguards with respect to recording of interviews during tax
1931 determination or collection processes conducted by the
1932 department, the right to be treated in a professional manner by
1933 department personnel, and the right to have audits, inspections
1934 of records, and interviews conducted at a reasonable time and
1935 place except in criminal and internal investigations (see ss.
1936 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3),
1937 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and 12 ~~(13)~~,
1938 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

1939 Section 20. (1) For the period of July 1, 2021, through
1940 September 30, 2021, a taxpayer may calculate the tax due under
1941 chapter 212, Florida Statutes, by applying s. 212.12, Florida
1942 Statutes, as amended by this act, or by applying the appropriate
1943 bracket system pursuant to former s. 212.12, Florida Statutes
1944 2020.

1945 (2) This section does not establish a right to a refund or
1946 credit of taxes already paid.

1947 (3) This section is repealed October 1, 2021.

1948 Section 21. Subsection (5) of section 213.27, Florida
1949 Statutes, is amended to read:

1950 213.27 Contracts with debt collection agencies and certain
1951 vendors.—

1952 (5) The department may, for the purpose of ascertaining the
1953 amount of or collecting any taxes due from a person making or
1954 facilitating remote sales under s. 212.0596 or s. 212.05965



913612

1955 ~~doing mail order business~~ in this state, contract with any
1956 auditing agency doing business within or without this state for
1957 the purpose of conducting an audit of such person ~~mail order~~
1958 ~~business~~; however, such audit agency may not conduct an audit on
1959 behalf of the department of any person domiciled in this state,
1960 person registered for sales and use tax purposes in this state,
1961 or corporation filing a Florida corporate tax return, if any
1962 such person or corporation objects to such audit in writing to
1963 the department and the auditing agency. The department shall
1964 notify the taxpayer by mail at least 30 days before the
1965 department assigns the collection of such taxes.

1966 Section 22. For the purpose of incorporating the amendment
1967 made by this act to section 212.054, Florida Statutes, in
1968 references thereto, paragraph (c) of subsection (2), paragraph
1969 (c) of subsection (3), paragraph (c) of subsection (8), and
1970 paragraph (c) of subsection (9) of section 212.055, Florida
1971 Statutes, are reenacted to read:

1972 212.055 Discretionary sales surtaxes; legislative intent;
1973 authorization and use of proceeds.—It is the legislative intent
1974 that any authorization for imposition of a discretionary sales
1975 surtax shall be published in the Florida Statutes as a
1976 subsection of this section, irrespective of the duration of the
1977 levy. Each enactment shall specify the types of counties
1978 authorized to levy; the rate or rates which may be imposed; the
1979 maximum length of time the surtax may be imposed, if any; the
1980 procedure which must be followed to secure voter approval, if
1981 required; the purpose for which the proceeds may be expended;
1982 and such other requirements as the Legislature may provide.
1983 Taxable transactions and administrative procedures shall be as



913612

1984 provided in s. 212.054.

1985 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

1986 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
1987 levied under this subsection shall be distributed to the county
1988 and the municipalities within such county in which the surtax
1989 was collected, according to:

1990 1. An interlocal agreement between the county governing
1991 authority and the governing bodies of the municipalities
1992 representing a majority of the county's municipal population,
1993 which agreement may include a school district with the consent
1994 of the county governing authority and the governing bodies of
1995 the municipalities representing a majority of the county's
1996 municipal population; or

1997 2. If there is no interlocal agreement, according to the
1998 formula provided in s. 218.62.

1999
2000 Any change in the distribution formula must take effect on the
2001 first day of any month that begins at least 60 days after
2002 written notification of that change has been made to the
2003 department.

2004 (3) SMALL COUNTY SURTAX.—

2005 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
2006 levied under this subsection shall be distributed to the county
2007 and the municipalities within the county in which the surtax was
2008 collected, according to:

2009 1. An interlocal agreement between the county governing
2010 authority and the governing bodies of the municipalities
2011 representing a majority of the county's municipal population,
2012 which agreement may include a school district with the consent



913612

2013 of the county governing authority and the governing bodies of
2014 the municipalities representing a majority of the county's
2015 municipal population; or

2016 2. If there is no interlocal agreement, according to the
2017 formula provided in s. 218.62.

2018
2019 Any change in the distribution formula shall take effect on the
2020 first day of any month that begins at least 60 days after
2021 written notification of that change has been made to the
2022 department.

2023 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

2024 (c) Pursuant to s. 212.054(4), the proceeds of the
2025 discretionary sales surtax collected under this subsection, less
2026 an administrative fee that may be retained by the Department of
2027 Revenue, shall be distributed by the department to the county.
2028 The county shall distribute the proceeds it receives from the
2029 department to each local government entity providing emergency
2030 fire rescue services in the county. The surtax proceeds, less an
2031 administrative fee not to exceed 2 percent of the surtax
2032 collected, shall be distributed by the county based on each
2033 entity's average annual expenditures for fire control and
2034 emergency fire rescue services in the 5 fiscal years preceding
2035 the fiscal year in which the surtax takes effect in proportion
2036 to the average annual total of the expenditures for such
2037 entities in the 5 fiscal years preceding the fiscal year in
2038 which the surtax takes effect. The county shall revise the
2039 distribution proportions to reflect a change in the service area
2040 of an entity receiving a distribution of the surtax proceeds. If
2041 an entity declines its share of surtax revenue, such revenue



913612

2042 shall be redistributed proportionally to the entities that are
2043 participating in the sharing of such revenue based on each
2044 participating entity's average annual expenditures for fire
2045 control and emergency fire rescue services in the preceding 5
2046 fiscal years in proportion to the average annual total of the
2047 expenditures for the participating entities in the preceding 5
2048 fiscal years.

2049 (9) PENSION LIABILITY SURTAX.—

2050 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
2051 collected under this subsection, less an administrative fee that
2052 may be retained by the department, shall be distributed by the
2053 department to the local government.

2054 Section 23. This act first applies to remote sales made or
2055 facilitated on or after July 1, 2021, by a person who made or
2056 facilitated a substantial number of remote sales in calendar
2057 year 2020. A marketplace seller shall consider only those sales
2058 made outside of a marketplace to determine whether it made a
2059 substantial number of remote sales in calendar year 2020.

2060 Section 24. (1) A person subject to the requirements of
2061 this act to collect and remit the tax under chapter 212, Florida
2062 Statutes, on remote sales is relieved of liability for tax,
2063 penalty, and interest due on remote sales that occurred before
2064 July 1, 2021, provided that the person registers with the
2065 department before October 1, 2021. This subsection is also
2066 intended to provide relief to a marketplace seller for remote
2067 sales made before July 1, 2021, which were facilitated by a
2068 marketplace provider. For a marketplace provider with a physical
2069 presence in this state, this subsection is intended to provide
2070 relief only for sales facilitated by the marketplace provider on



913612

2071 behalf of a marketplace seller. This subsection does not apply
2072 to a person who is under audit; has been issued a bill, notice,
2073 or demand for payment; or is under an administrative or judicial
2074 proceeding as of July 1, 2021.

2075 (2) The department may not use data received from
2076 registered marketplace providers or persons making remote sales
2077 for the purposes of identifying use tax liabilities occurring
2078 before July 1, 2021, from unregistered persons who but for their
2079 purchases from the registered taxpayer would not be required to
2080 remit sales or use tax directly to the department. This
2081 subsection does not apply to a person who is under audit; has
2082 been issued a bill, notice, or demand for payment; or is under
2083 an administrative or judicial proceeding as of July 1, 2021.

2084 (3) This section does not establish a right to a refund or
2085 credit of taxes already paid.

2086 Section 25. (1) The Department of Revenue is authorized,
2087 and all conditions are deemed met, to adopt emergency rules
2088 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
2089 administering this act.

2090 (2) Notwithstanding any other law, emergency rules adopted
2091 pursuant to subsection (1) are effective for 6 months after
2092 adoption and may be renewed during the pendency of procedures to
2093 adopt permanent rules addressing the subject of the emergency
2094 rules.

2095 (3) This section shall take effect upon this act becoming a
2096 law and expires July 1, 2023.

2097 Section 26. Notwithstanding s. 287.057, Florida Statutes,
2098 the Department of Revenue is authorized to contract with a
2099 qualified vendor to provide services necessary to administer



913612

2100 this act without using a competitive solicitation process. The
2101 authority granted to the Department of Revenue by this section
2102 applies solely to the implementation and administration of this
2103 act and may not be used for any other purpose. Such authority
2104 ends, and any contract entered into pursuant to this section
2105 still in force becomes void, upon the expiration of this
2106 section. This section expires June 30, 2023.

2107 Section 27. For the 2020-2021 fiscal year, the sum of
2108 \$353,000 in nonrecurring funds is appropriated from the General
2109 Revenue Fund to the Department of Revenue for the purpose of
2110 implementing this act. Funds remaining unexpended or
2111 unencumbered from this appropriation as of June 30, 2021, shall
2112 revert and be reappropriated for the same purpose in the 2021-
2113 2022 fiscal year.

2114 Section 28. If any provision of this act or its application
2115 to any person or circumstance is held invalid, the invalidity
2116 does not affect other provisions or applications of the act
2117 which can be given effect without the invalid provision or
2118 application, and to this end the provisions of this act are
2119 severable.

2120 Section 29. Except as otherwise expressly provided in this
2121 act and except for this section, which shall take effect upon
2122 this act becoming a law, this act shall take effect July 1,
2123 2021.

2124
2125 ===== T I T L E A M E N D M E N T =====

2126 And the title is amended as follows:

2127 Delete everything before the enacting clause
2128 and insert:



913612

2129 A bill to be entitled
2130 An act relating to taxation; providing a short title;
2131 amending s. 212.02, F.S.; revising the definition of
2132 the term "retail sale" to include sales facilitated
2133 through a marketplace; conforming a provision to
2134 changes made by the act; amending s. 212.05, F.S.;
2135 conforming provisions to changes made by the act;
2136 amending s. 212.054, F.S.; requiring marketplace
2137 providers and persons located outside of this state to
2138 remit discretionary sales surtax when delivering
2139 tangible personal property to a county imposing a
2140 surtax; amending s. 212.0596, F.S.; replacing
2141 provisions relating to the taxation of mail order
2142 sales with provisions relating to the taxation of
2143 remote sales; defining the terms "remote sale" and
2144 "substantial number of remote sales"; providing that
2145 every person making a substantial number of remote
2146 sales is a dealer for purposes of the sales and use
2147 tax; authorizing the Department of Revenue to adopt
2148 rules for collecting use taxes from unregistered
2149 persons; requiring marketplace providers and persons
2150 required to report remote sales to remit discretionary
2151 sales surtax when delivering tangible personal
2152 property to a county imposing a surtax; creating s.
2153 212.05965, F.S.; defining terms; providing that
2154 certain marketplace providers are dealers for purposes
2155 of the sales and use tax; requiring certain
2156 marketplace providers to provide a certain
2157 certification to their marketplace sellers; specifying



913612

2158 requirements for marketplace sellers; requiring
2159 certain marketplace providers to allow the Department
2160 of Revenue to examine and audit their books and
2161 records; specifying the examination and audit
2162 authority of the Department of Revenue; providing that
2163 a marketplace seller, rather than the marketplace
2164 provider, is liable for sales tax collection and
2165 remittance under certain circumstances; authorizing
2166 marketplace providers and marketplace sellers to enter
2167 into agreements for the recovery of certain taxes,
2168 interest, and penalties; providing construction and
2169 applicability; amending s. 212.05965, F.S.; requiring
2170 marketplace providers to collect and remit certain
2171 additional fees at the time of sale; authorizing
2172 marketplace providers and marketplace sellers to
2173 contractually agree for marketplace sellers to collect
2174 applicable taxes and fees; specifying requirements for
2175 marketplace sellers who collect such taxes and fees;
2176 providing for liability of sellers who fail to collect
2177 or remit such taxes and fees; amending s. 212.06,
2178 F.S.; revising the definition of the term "dealer";
2179 conforming provisions to changes made by the act;
2180 amending 212.07, F.S.; conforming a cross-reference;
2181 amending 212.11, F.S.; requiring certain marketplace
2182 providers or persons required to report remote sales
2183 to file returns and pay taxes electronically; amending
2184 s. 212.12, F.S.; deleting the authority of the
2185 Department of Revenue's executive director to
2186 negotiate a collection allowance with certain dealers;



913612

2187 deleting the requirement that certain sales and use
2188 taxes on communications services be collected on the
2189 basis of a certain addition; requiring that certain
2190 sales and use taxes be calculated based on a specified
2191 rounding algorithm, rather than specified brackets;
2192 conforming provisions to changes made by the act;
2193 amending s. 212.18, F.S.; requiring certain
2194 marketplace providers or persons required to report
2195 remote sales to file a registration application
2196 electronically; conforming a provision to changes made
2197 by the act; amending s. 212.20, F.S.; providing
2198 applicability of requirements for refund of taxes
2199 adjudicated unconstitutionally collected to taxes
2200 levied or collected pursuant to marketplace
2201 provisions; requiring certain amounts to be deposited
2202 into the Unemployment Compensation Trust Fund during
2203 specified periods; specifying requirements for the
2204 Department of Revenue in reducing distributions by
2205 certain refund amounts paid out of the General Revenue
2206 Fund; requiring the Office of Economic and Demographic
2207 Research to certify to the Department of Revenue
2208 whether the trust fund balance exceeds a certain
2209 amount; providing for contingent future repeal;
2210 amending s. 443.1216, F.S.; conforming a cross-
2211 reference; amending s. 443.131, F.S.; specifying, at
2212 certain periods, multipliers to be applied to employer
2213 chargeable benefits for purposes of calculating
2214 employer reemployment assistance contribution rates;
2215 excluding reemployment benefits paid during a certain



913612

2216 timeframe and certain COVID-19-related benefits paid
2217 from being included in a variable rate calculation;
2218 requiring that contribution rates in certain years be
2219 calculated without applying a trust fund positive
2220 adjustment factor; excluding reemployment benefits
2221 paid during a certain timeframe and certain COVID-19-
2222 related benefits paid from being calculated in the
2223 noncharge benefits and excess payments adjustment
2224 factors; requiring the tax collection service provider
2225 to reissue rates for a certain year; specifying
2226 requirements for employers and the Department of
2227 Revenue; requiring a refund of excess paid amounts
2228 under certain circumstances; specifying requirements
2229 for calculating and assigning contribution rates for
2230 certain years; specifying requirements for the
2231 Department of Economic Opportunity and the tax
2232 collection service provider; providing for contingent
2233 future repeal of modified rate calculations;
2234 specifying requirements for calculating adjustments to
2235 a benefit ratio multiplier; conforming a cross-
2236 reference; providing retroactive applicability;
2237 amending s. 443.191, F.S.; adding a specified source
2238 of revenues to the Unemployment Compensation Trust
2239 Fund; amending ss. 212.04 and 212.0506, F.S.;;
2240 conforming provisions to changes made by the act;
2241 amending 213.015, F.S.; conforming a cross-reference;
2242 authorizing taxpayers to use one of two methods for
2243 calculating sales tax for a specified timeframe
2244 providing construction; amending s. 213.27, F.S.;



913612

2245 conforming provisions to changes made by the act;
2246 reenacting s. 212.055(2)(c), (3)(c), (8)(c), and
2247 (9)(c), F.S., relating to discretionary sales
2248 surtaxes, to incorporate the amendment made to s.
2249 212.054, F.S., in references thereto; providing
2250 applicability; providing relief to certain persons for
2251 liability for tax, penalty, and interest due on
2252 certain remote sales and owed on certain purchases
2253 that occurred before a certain date; providing
2254 applicability; prohibiting the department from using
2255 data received from marketplace providers or persons
2256 making remote sales for certain purposes; providing
2257 applicability; providing construction; authorizing the
2258 department to adopt emergency rules; providing for
2259 expiration of that authority; authorizing the
2260 department to contract with a qualified vendor for
2261 certain purposes without using a competitive
2262 solicitation process; providing an appropriation;
2263 providing for severability; providing effective dates.

2264
2265 WHEREAS, during the 2020 calendar year, the United States
2266 economy was significantly strained by the COVID-19 pandemic, and
2267 such economic stress is continuing in the 2021 calendar year and
2268 may have impacts in later years, and

2269 WHEREAS, the State of Florida was in full lockdown during
2270 April 2020 and then began to reopen the Florida economy in a
2271 measured manner thereafter, and

2272 WHEREAS, the financial strain of lockdowns and reduced
2273 economic activity caused some Florida businesses to close



913612

2274 permanently and others to terminate portions of their workforce,
2275 and

2276 WHEREAS, in the 6-month period before April 2020, Florida's
2277 average monthly reemployment assistance benefits expense was
2278 \$27.2 million, and

2279 WHEREAS, beginning in April 2020, Florida's monthly
2280 reemployment assistance benefits expense increased by 800
2281 percent over the prior 6-month average, and at times, the
2282 increase exceeded 2,000 percent, and

2283 WHEREAS, in the current time of recovery, Florida's
2284 reemployment assistance benefits expense remains 473 percent
2285 over the 6-month average benefit amount before April 2020, and
2286 is estimated to continue at elevated levels for the foreseeable
2287 future, and

2288 WHEREAS, to the fullest extent possible, the Legislature
2289 intends to relieve individual Florida businesses of increases in
2290 the Reemployment Assistance Tax which are due to increased
2291 reemployment assistance benefits resulting from the pandemic,
2292 and

2293 WHEREAS, the Legislature intends to ensure that the
2294 Unemployment Compensation Trust Fund remains solvent for the
2295 purposes of providing benefits to Floridians impacted by these
2296 extraordinary events, and

2297 WHEREAS, the Legislature intends to equalize the tax
2298 collection responsibilities of retailers both inside and outside
2299 Florida who make sales of taxable items to Florida residents,
2300 NOW, THEREFORE,