

1                                   A bill to be entitled  
2           An act relating to ; providing an effective date.

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4 Be It Enacted by the Legislature of the State of Florida:

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6           Section 1. Subsections (2), (4), and (8) of section 212.07,  
7 Florida Statutes, are amended to read:

8           212.07 Sales, storage, use tax; tax added to purchase  
9 price; ~~dealer not to absorb;~~ liability of purchasers who cannot  
10 prove payment of the tax; penalties; general exemptions.-

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

29 subject to the tax imposed by this chapter shall be liable for  
30 and pay the tax himself or herself.

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

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

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

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

54 3. This paragraph may not be administered to apply to taxes  
55 under ss. 125.0104(8) (b) and 125.0108(4) (b).

56 (c) A person who violates this subsection ~~provision with~~

57 ~~respect to advertising or refund~~ is guilty of a misdemeanor of  
58 the second degree, punishable as provided in s. 775.082 or s.  
59 775.083. A second or subsequent offense constitutes a  
60 misdemeanor of the first degree, punishable as provided in s.  
61 775.082 or s. 775.083.

62 (8) Any person who has purchased at retail, used, consumed,  
63 distributed, or stored for use or consumption in this state  
64 tangible personal property, admissions, communication or other  
65 services taxable under this chapter, or leased tangible personal  
66 property, or who has leased, occupied, or used or was entitled  
67 to use any real property, space or spaces in parking lots or  
68 garages for motor vehicles, docking or storage space or spaces  
69 for boats in boat docks or marinas, and cannot prove that the  
70 tax levied by this chapter has been paid to his or her vendor,  
71 lessor, or other person or was paid on behalf of the purchaser  
72 by a dealer pursuant to subsection (4) is directly liable to the  
73 state for any tax, interest, or penalty due on any such taxable  
74 transactions.

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

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

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

84 (a) If the total amount of stolen revenue is less than

85 \$1,000, the offense is a misdemeanor of the second degree,  
86 punishable as provided in s. 775.082 or s. 775.083. Upon a  
87 second conviction, the offender commits a misdemeanor of the  
88 first degree, punishable as provided in s. 775.082 or s.  
89 775.083. Upon a third or subsequent conviction, the offender  
90 commits a felony of the third degree, punishable as provided in  
91 s. 775.082, s. 775.083, or s. 775.084.

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

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

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

103 Section 3. Section 213.29, Florida Statutes, is amended to  
104 read:

105 213.29 Failure to collect and pay over tax or attempt to  
106 evade or defeat tax.—Any person who is required to collect,  
107 truthfully account for, and pay over any tax enumerated in  
108 chapter 201, chapter 206, or chapter 212 and who willfully fails  
109 to collect such tax or truthfully account for and pay over such  
110 tax or willfully attempts in any manner to evade or defeat such  
111 tax or the payment thereof; or any officer or director of a  
112 corporation who has administrative control over the collection

113 and payment of such tax and who willfully directs any employee  
114 of the corporation to fail to collect or pay over, evade,  
115 defeat, or truthfully account for such tax shall, in addition to  
116 other penalties provided by law, be liable to a penalty equal to  
117 twice the total amount of the tax evaded or not accounted for or  
118 paid over. The filing of a protest based upon doubt as to  
119 liability or collection of a tax shall not be determined to be  
120 an attempt to evade tax under this section. The penalty imposed  
121 hereunder shall be in addition to any other penalty imposed or  
122 that should have been imposed under the revenue laws of this  
123 state, but shall be abated to the extent that the tax is paid.  
124 Any penalty may be compromised by the executive director of the  
125 Department of Revenue as set forth in s. 213.21. An assessment  
126 of penalty made pursuant to this section shall be deemed prima  
127 facie correct in any judicial or quasi-judicial proceeding  
128 brought to collect this penalty. This penalty also applies to  
129 any person who willfully fails to remit any tax or part of tax  
130 advertised or held out as being paid on behalf of a purchaser  
131 permitted by s. 212.07(4)(b), F.S.

132 Section 4. This act shall take effect July 1, 2021.