

1                                   A bill to be entitled  
 2           An act relating to sales tax absorption; amending s.  
 3           212.07, F.S.; authorizing dealers, subject to  
 4           specified conditions, to advertise or hold out to the  
 5           public that they will absorb all or part of the sales  
 6           and use tax on taxable transactions, or refund any  
 7           part thereof to the purchaser; revising a criminal  
 8           penalty; conforming provisions to changes made by the  
 9           act; amending s. 212.15, F.S.; providing that certain  
 10          persons who unlawfully fail to remit absorbed sales  
 11          taxes commit theft of state funds; providing an  
 12          effective date.

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

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 16           Section 1. Subsections (4) and (8) of section 212.07,  
 17   Florida Statutes, are amended, and subsection (2) of that  
 18   section is republished, to read:

19           212.07 Sales, storage, use tax; tax added to purchase  
 20   price; tax absorption ~~dealer not to absorb~~; liability of  
 21   purchasers who cannot prove payment of the tax; penalties;  
 22   general exemptions.—

23           (2) A dealer shall, as far as practicable, add the amount  
 24   of the tax imposed under this chapter to the sale price, and the  
 25   amount of the tax shall be separately stated as Florida tax on

26 | any charge ticket, sales slip, invoice, or other tangible  
27 | evidence of sale. Such tax shall constitute a part of such  
28 | price, charge, or proof of sale which shall be a debt from the  
29 | purchaser or consumer to the dealer, until paid, and shall be  
30 | recoverable at law in the same manner as other debts. Where it  
31 | is impracticable, due to the nature of the business practices  
32 | within an industry, to separately state Florida tax on any  
33 | charge ticket, sales slip, invoice, or other tangible evidence  
34 | of sale, the department may establish an effective tax rate for  
35 | such industry. The department may also amend this effective tax  
36 | rate as the industry's pricing or practices change. Except as  
37 | otherwise specifically provided, any dealer who neglects, fails,  
38 | or refuses to collect the tax herein provided upon any, every,  
39 | and all retail sales made by the dealer or the dealer's agents  
40 | or employees of tangible personal property or services which are  
41 | subject to the tax imposed by this chapter shall be liable for  
42 | and pay the tax himself or herself.

43 |       (4) (a) A dealer engaged in any business taxable under this  
44 | chapter may not advertise or hold out to the public, in any  
45 | manner, directly or indirectly, that ~~he or she will absorb all~~  
46 | ~~or any part of the tax, or that he or she will relieve the~~  
47 | ~~purchaser of the payment of all or any part of the tax, or that~~  
48 | the tax will not be added to the selling price of the property  
49 | or services sold or released. However, such dealer may advertise  
50 | or hold out to the public ~~or, when added,~~ that he or she will

51 absorb all or any part of such tax or that ~~it or~~ any part  
52 thereof will be refunded to the purchaser subject to both of the  
53 following conditions:

54 1. In so advertising or holding out to the public, the  
55 dealer shall expressly state on any charge ticket, sales slip,  
56 invoice, or other tangible evidence of sale given to the  
57 purchaser that such dealer will pay the tax imposed by this  
58 chapter to the state. The dealer may not indicate or imply that  
59 the transaction is exempt or excluded from the tax imposed by  
60 this chapter.

61 2. A charge ticket, sales slip, invoice, or other tangible  
62 evidence of sale given to the purchaser must separately state  
63 the amount of such tax in accordance with subsection (2) ~~either~~  
64 ~~directly or indirectly by any method whatsoever.~~

65 (b) A person who violates this subsection commits  
66 ~~provision with respect to advertising or refund is guilty of a~~  
67 misdemeanor of the second degree, punishable as provided in s.  
68 775.082 or s. 775.083. A second or subsequent offense  
69 constitutes a misdemeanor of the first degree, punishable as  
70 provided in s. 775.082 or s. 775.083.

71 (8) Any person who has purchased at retail, used,  
72 consumed, distributed, or stored for use or consumption in this  
73 state tangible personal property, admissions, communication or  
74 other services taxable under this chapter, or leased tangible  
75 personal property, or who has leased, occupied, or used or was

76 | entitled to use any real property, space or spaces in parking  
77 | lots or garages for motor vehicles, docking or storage space or  
78 | spaces for boats in boat docks or marinas, and cannot prove that  
79 | the tax levied by this chapter has been paid to his or her  
80 | vendor, lessor, or other person, or was absorbed by a dealer  
81 | pursuant to subsection (4), is directly liable to the state for  
82 | any tax, interest, or penalty due on any such taxable  
83 | transactions.

84 |       Section 2. Subsection (2) of section 212.15, Florida  
85 | Statutes, is amended to read:

86 |       212.15 Taxes declared state funds; penalties for failure  
87 | to remit taxes; due and delinquent dates; judicial review.—

88 |       (2) Any person who, with intent to unlawfully deprive or  
89 | defraud the state of its moneys or the use or benefit thereof,  
90 | fails to remit taxes collected or absorbed under this chapter  
91 | commits theft of state funds, punishable as follows:

92 |       (a) If the total amount of stolen revenue is less than  
93 | \$1,000, the offense is a misdemeanor of the second degree,  
94 | punishable as provided in s. 775.082 or s. 775.083. Upon a  
95 | second conviction, the offender commits a misdemeanor of the  
96 | first degree, punishable as provided in s. 775.082 or s.  
97 | 775.083. Upon a third or subsequent conviction, the offender  
98 | commits a felony of the third degree, punishable as provided in  
99 | s. 775.082, s. 775.083, or s. 775.084.

100 |       (b) If the total amount of stolen revenue is \$1,000 or

101 more, but less than \$20,000, the offense is a felony of the  
102 third degree, punishable as provided in s. 775.082, s. 775.083,  
103 or s. 775.084.

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

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

111 Section 3. This act shall take effect July 1, 2020.