

CHAPTER 98-142

Committee Substitute for Senate Bill No. 1692

An act relating to the tax on sales, use, and other transactions (RAB); amending s. 212.02, F.S.; defining the terms “agricultural commodity,” “farmer,” and “livestock”; amending s. 212.07, F.S.; prescribing dealer liability for certain tax; prescribing tax liability for sales of race horses in claiming races; amending s. 212.08, F.S.; exempting certain sales of racing dogs; disallowing a sales tax exemption for purchases made by an employee of an exempt organization when such payment is made by the employee; amending s. 212.09, F.S.; revising provisions regulating credits for trade-ins; amending s. 212.17, F.S.; providing for reimbursement of certain taxes paid by dealers; amending s. 212.18, F.S.; providing for revocation of a dealer’s certificate of registration; providing an effective date.

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

Section 1. Subsections (27), (28), and (29) are added to section 212.02, Florida Statutes, to read:

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

(27) “Agricultural commodity” means horticultural, aquacultural, poultry and farm products, and livestock and livestock products.

(28) “Farmer” means a person who is directly engaged in the business of producing crops, livestock, or other agricultural commodities. The term includes, but is not limited to, horse breeders, nurserymen, dairymen, poultry men, cattle ranchers, apiarists, and persons raising fish.

(29) “Livestock” includes all animals of the equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, ostriches, and other grazing animals raised for commercial purposes. The term “livestock” shall also include fish raised for commercial purposes.

Section 2. Paragraph (c) is added to subsection (1) of section 212.07, Florida Statutes, and subsections (5) and (8) of that section are amended, to read:

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

(1)

(c) Unless the purchaser of tangible personal property that is incorporated into tangible personal property manufactured, produced, compounded, processed, or fabricated for one’s own use and subject to the tax imposed

under s. 212.06(1)(b) or is purchased for export under s. 212.06(5)(a)1. extends a certificate in compliance with the rules of the department, the dealer shall himself or herself be liable for and pay the tax.

(5)(a) The gross proceeds derived from the sale in this state of livestock, poultry, and other farm products direct from the farm are exempted from the tax levied by this chapter provided such sales are made directly by the producers. The producers shall be entitled to such exemptions although the livestock so sold in this state may have been registered with a breeders' or registry association prior to the sale and although the sale takes place at a livestock show or race meeting, so long as the sale is made by the original producer and within this state. When sales of livestock, poultry, or other farm products are made to consumers by any person, as defined herein, other than a producer, they are not exempt from the tax imposed by this chapter. The foregoing exemption does not apply to ornamental nursery stock offered for retail sale by the producer.

(b) Sales of race horses at claiming races are taxable; however, if sufficient information is provided by race track officials to properly administer the tax, sales tax is due only on the maximum single amount for which a horse is sold at all races at which it is claimed during an entire racing season.

~~(8) The term "agricultural commodity," for the purposes hereof, means horticultural, poultry and farm products, and livestock and livestock products.~~

Section 3. Subsection (7) of section 212.08, Florida Statutes, is amended, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—

(a) Artificial commemorative flowers.—Exempt from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans' organizations.

(b) Boiler fuels.—When purchased for use as a combustible fuel, purchases of natural gas, residual oil, recycled oil, waste oil, solid waste material, coal, sulfur, wood, wood residues or wood bark used in an industrial manufacturing, processing, compounding, or production process at a fixed location in this state are exempt from the taxes imposed by this chapter; however, such exemption shall not be allowed unless the purchaser signs a certificate stating that the fuel to be exempted is for the exclusive use designated herein. This exemption does not apply to the use of boiler fuels that are not used in manufacturing, processing, compounding, or producing items of tangible personal property for sale, or to the use of boiler fuels used

by any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(c) Crustacea bait.—Also exempt from the tax imposed by this chapter is the purchase by commercial fishers of bait intended solely for use in the entrapment of *Callinectes sapidus* and *Menippe mercenaria*.

(d) Feeds.—Feeds for poultry, ostriches, and livestock, including race-horses and dairy cows, are exempt.

(e) Film rentals.—Film rentals are exempt when an admission is charged for viewing such film, and license fees and direct charges for films, video-tapes, and transcriptions used by television or radio stations or networks are exempt.

(f) Flags.—Also exempt are sales of the flag of the United States and the official state flag of Florida.

(g) Florida Retired Educators Association and its local chapters.—Also exempt from payment of the tax imposed by this chapter are purchases of office supplies, equipment, and publications made by the Florida Retired Educators Association and its local chapters.

(h) Guide dogs for the blind.—Also exempt are the sale or rental of guide dogs for the blind, commonly referred to as “seeing-eye dogs,” and the sale of food or other items for such guide dogs.

1. The department shall issue a consumer’s certificate of exemption to any blind person who holds an identification card as provided for in s. 413.091 and who either owns or rents, or contemplates the ownership or rental of, a guide dog for the blind. The consumer’s certificate of exemption shall be issued without charge and shall be of such size as to be capable of being carried in a wallet or billfold.

2. The department shall make such rules concerning items exempt from tax under the provisions of this paragraph as may be necessary to provide that any person authorized to have a consumer’s certificate of exemption need only present such a certificate at the time of paying for exempt goods and shall not be required to pay any tax thereon.

(i) Hospital meals and rooms.—Also exempt from payment of the tax imposed by this chapter on rentals and meals are patients and inmates of any hospital or other physical plant or facility designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention. Residents of a home for the aged are exempt from payment of taxes on meals provided through the facility. A home for the aged is defined as a facility that is licensed or certified in part or in whole under chapter 400 or chapter 651, or that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act, or other such similar facility designed and operated primarily for the care of the aged.

(j) Household fuels.—Also exempt from payment of the tax imposed by this chapter are sales of utilities to residential households or owners of residential models in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, and sales of fuel to residential households or owners of residential models, including oil, kerosene, liquefied petroleum gas, coal, wood, and other fuel products used in the household or residential model for the purposes of heating, cooking, lighting, and refrigeration, regardless of whether such sales of utilities and fuels are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the utility or fuel is used for a nonexempt purpose, the entire sale is taxable. The landlord shall provide a separate meter for nonexempt utility or fuel consumption. For the purposes of this paragraph, licensed family day care homes shall also be exempt.

(k) Meals provided by certain nonprofit organizations.—There is exempt from the tax imposed by this chapter the sale of prepared meals by a nonprofit volunteer organization to handicapped, elderly, or indigent persons when such meals are delivered as a charitable function by the organization to such persons at their places of residence.

(l) Military museums.—Also exempt are sales to nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), Internal Revenue Code of 1954, as amended, and whose primary purpose is to raise money for military museums.

(m) Nonprofit corporations; homes for the aged, nursing homes, or hospices.—Nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), Internal Revenue Code of 1954, as amended, and which either qualify as homes for the aged pursuant to s. 196.1975(2) or are licensed as a nursing home or hospice under the provisions of chapter 400, are exempt from the tax imposed by this chapter.

(n) Organizations providing special educational, cultural, recreational, and social benefits to minors.—There shall be exempt from the tax imposed by this chapter nonprofit organizations which are incorporated pursuant to chapter 617 or which hold a current exemption from federal corporate income tax pursuant to s. 501(c)(3) of the Internal Revenue Code the primary purpose of which is providing activities that contribute to the development of good character or good sportsmanship, or to the educational or cultural development, of minors. This exemption is extended only to that level of the organization that has a salaried executive officer or an elected nonsalaried executive officer.

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by this chapter transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this chapter.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1986, as amended, which owns and operates a Florida television station, at least 90 percent of the programming of which station consists of programs of a religious nature, and the financial support for which, exclusive of receipts for broadcasting from other nonprofit organizations, is predominantly from contributions from the general public. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1986, as amended, which provides regular religious services to Florida state prisoners and which from its own established physical place of worship, operates a ministry providing worship and services of a charitable nature to the community on a weekly basis.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of or rehabilitation of persons from alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer staff to organizations designated as charitable institutions under this sub-subparagraph; nonprofit organizations the sole or primary purpose of which is to coordinate, network, or link other institutions designated as charitable institutions under this sub-subparagraph with those persons, animals, or organizations in need of their services; and nonprofit national, state, district, or other governing, coordinating, or administrative organizations the sole or primary purpose of which is to represent or regulate the customary activities of other institutions designated as charitable institutions under this sub-subparagraph. Notwithstanding any other requirement of this section, any blood bank that relies solely upon volunteer donations of blood and tissue, that is licensed under chapter 483, and that qualifies as tax exempt under s. 501(c)(3) of the Internal Revenue Code constitutes a charitable institution and is exempt from the tax imposed by this chapter. Sales to a health system, qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1986, as amended, which filed an application for exemption with the department prior to April 5, 1997, and which application is subsequently approved, shall be exempt as to any unpaid taxes on purchases made from January 1, 1994, to June 1, 1997.

c. "Scientific organizations" means scientific organizations which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality or the purpose of which is to protect wildlife and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or nonprofit private schools which conduct regular classes and courses of study accepted for continuing education credit by a Board of the Division of Medical Quality Assurance of the Department of Business and Professional Regulation or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association. Nonprofit libraries, art galleries, performing arts centers that provide educational programs to school children, which programs involve performances or other educational

activities at the performing arts center and serve a minimum of 50,000 school children a year, and museums open to the public are defined as educational institutions and are eligible for exemption. The term “educational institutions” includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term “educational institutions” includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term “educational institutions” also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members. The term “educational institutions” also includes a nonprofit educational cable consortium which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations which hold a valid consumer certificate of exemption and which are either an educational institution as defined in this sub-subparagraph, or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

e. “Veterans’ organizations” means nationally chartered or recognized veterans’ organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code.

(p) Resource recovery equipment.—Also exempt is resource recovery equipment which is owned and operated by or on behalf of any county or municipality, certified by the Department of Environmental Protection under the provisions of s. 403.715.

(q) School books and school lunches.—This exemption applies to school books used in regularly prescribed courses of study, and to school lunches served to students, in public, parochial, or nonprofit schools operated for and attended by pupils of grades 1 through 12. School books and food sold or served at community colleges and other institutions of higher learning are taxable.

(r) State theater contract organizations.—Nonprofit organizations incorporated in accordance with chapter 617 which have qualified under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which have been designated as state theater contract organizations as provided in s. 265.289 are exempt from the tax imposed by this chapter.

(s) Tasting beverages.—Vinous and alcoholic beverages provided by distributors or vendors for the purpose of “wine tasting” and “spirituous beverage

age tasting” as contemplated under the provisions of ss. 564.06 and 565.12, respectively, are exempt from the tax imposed by this chapter.

(t) Boats temporarily docked in state.—

1. Notwithstanding the provisions of chapters 327 and 328, pertaining to the registration of vessels, a boat upon which the state sales or use tax has not been paid is exempt from the use tax under this chapter if it enters and remains in this state for a period not to exceed a total of 20 days in any calendar year calculated from the date of first dockage or slippage at a facility, registered with the department, that rents dockage or slippage space in this state. If a boat brought into this state for use under this paragraph is placed in a facility, registered with the department, for repairs, alterations, refitting, or modifications and such repairs, alterations, refitting, or modifications are supported by written documentation, the 20-day period shall be tolled during the time the boat is physically in the care, custody, and control of the repair facility, including the time spent on sea trials conducted by the facility. The 20-day time period may be tolled only once within a calendar year when a boat is placed for the first time that year in the physical care, custody, and control of a registered repair facility; however, the owner may request and the department may grant an additional tolling of the 20-day period for purposes of repairs that arise from a written guarantee given by the registered repair facility, which guarantee covers only those repairs or modifications made during the first tolled period. Within 72 hours after the date upon which the registered repair facility took possession of the boat, the facility must have in its possession, on forms prescribed by the department, an affidavit which states that the boat is under its care, custody, and control and that the owner does not use the boat while in the facility. Upon completion of the repairs, alterations, refitting, or modifications, the registered repair facility must, within 72 hours after the date of release, have in its possession a copy of the release form which shows the date of release and any other information the department requires. The repair facility shall maintain a log that documents all alterations, additions, repairs, and sea trials during the time the boat is under the care, custody, and control of the facility. The affidavit shall be maintained by the registered repair facility as part of its records for as long as required by s. 213.35. When, within 6 months after the date of its purchase, a boat is brought into this state under this paragraph, the 6-month period provided in s. 212.05(1)(a)2. or s. 212.06(8) shall be tolled.

2. During the period of repairs, alterations, refitting, or modifications and during the 20-day period referred to in subparagraph 1., the boat may be listed for sale, contracted for sale, or sold exclusively by a broker or dealer registered with the department without incurring a use tax under this chapter; however, the sales tax levied under this chapter applies to such sale.

3. The mere storage of a boat at a registered repair facility does not qualify as a tax-exempt use in this state.

4. As used in this paragraph, “registered repair facility” means:

- a. A full-service facility that:
 - (I) Is located on a navigable body of water;
 - (II) Has haulout capability such as a dry dock, travel lift, railway, or similar equipment to service craft under the care, custody, and control of the facility;
 - (III) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and
 - (IV) Has necessary shops and equipment to provide repair or warranty work on vessels under the care, custody, and control of the facility;
- b. A marina that:
 - (I) Is located on a navigable body of water;
 - (II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and
 - (III) Has necessary shops and equipment to provide repairs or warranty work on vessels; or
- c. A shoreside facility that:
 - (I) Is located on a navigable body of water;
 - (II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and
 - (III) Has necessary shops and equipment to provide repairs or warranty work.
- (u) Volunteer fire departments.—Also exempt are firefighting and rescue service equipment and supplies purchased by volunteer fire departments, duly chartered under the Florida Statutes as corporations not for profit.
- (v) Professional services.—
 1. Also exempted are professional, insurance, or personal service transactions that involve sales as inconsequential elements for which no separate charges are made.
 2. The personal service transactions exempted pursuant to subparagraph 1. do not exempt the sale of information services involving the furnishing of printed, mimeographed, or multigraphed matter, or matter duplicating written or printed matter in any other manner, other than professional services and services of employees, agents, or other persons acting in a representative or fiduciary capacity or information services furnished to newspapers and radio and television stations. As used in this subparagraph, the term “information services” includes the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons.

3. This exemption does not apply to any service warranty transaction taxable under s. 212.0506.

4. This exemption does not apply to any service transaction taxable under s. 212.05(1)(k).

(w) Certain newspaper, magazine, and newsletter subscriptions, shoppers, and community newspapers.—Likewise exempt are newspaper, magazine, and newsletter subscriptions in which the product is delivered to the customer by mail. Also exempt are free, circulated publications that are published on a regular basis, the content of which is primarily advertising, and that are distributed through the mail, home delivery, or newsstands. The exemption for newspaper, magazine, and newsletter subscriptions which is provided in this paragraph applies only to subscriptions entered into after March 1, 1997.

(x) Sporting equipment brought into the state.—Sporting equipment brought into Florida, for a period of not more than 4 months in any calendar year, used by an athletic team or an individual athlete in a sporting event is exempt from the use tax if such equipment is removed from the state within 7 days after the completion of the event.

(y) Charter fishing vessels.—The charge for chartering any boat or vessel, with the crew furnished, solely for the purpose of fishing is exempt from the tax imposed under s. 212.04 or s. 212.05. This exemption does not apply to any charge to enter or stay upon any “head-boat,” party boat, or other boat or vessel. Nothing in this paragraph shall be construed to exempt any boat from sales or use tax upon the purchase thereof except as provided in paragraph (t) and s. 212.05.

(z) Vending machines sponsored by nonprofit or charitable organizations.—Also exempt are food or drinks for human consumption sold for 25 cents or less through a coin-operated vending machine sponsored by a nonprofit corporation qualified as nonprofit pursuant to s. 501(c)(3) or (4) of the Internal Revenue Code of 1986, as amended.

(aa) Certain commercial vehicles.—Also exempt is the sale, lease, or rental of a commercial motor vehicle as defined in s. 207.002(2), when the following conditions are met:

1. The sale, lease, or rental occurs between two commonly owned and controlled corporations;
2. Such vehicle was titled and registered in this state at the time of the sale, lease, or rental; and
3. Florida sales tax was paid on the acquisition of such vehicle by the seller, lessor, or renter.

(bb) Community cemeteries.—Also exempt are purchases by any nonprofit corporation that has qualified under s. 501(c)(13) of the Internal Revenue Code of 1986, as amended, and is operated for the purpose of maintaining a cemetery that was donated to the community by deed.

(c) Coast Guard auxiliaries.—A nonprofit organization that is affiliated with the Coast Guard, that is exempt from federal income tax pursuant to s. 501(a) and (c)(3) of the Internal Revenue Code of 1986, as amended, and the primary purpose of which is to promote safe boating and to conduct free public education classes in basic seamanship is exempt from the tax imposed by this chapter.

(dd) Works of art.—

1. Also exempt are works of art sold to or used by an educational institution, as defined in sub-subparagraph (o)2.d.

2. This exemption also applies to the sale to or use in this state of any work of art by any person if it was purchased or imported exclusively for the purpose of being loaned to and made available for display by any educational institution, provided that the term of the loan agreement is for at least 10 years.

3. A work of art is presumed to have been purchased in or imported into this state exclusively for loan as provided in subparagraph 2., if it is so loaned or placed in storage in preparation for such a loan within 90 days after purchase or importation, whichever is later; but a work of art is not deemed to be placed in storage for purposes of this exemption if it is displayed at any place other than an educational institution.

4. The exemptions provided by this paragraph are allowed only if the person who purchased the work of art gives to the vendor an affidavit meeting the requirements, established by rule, to document entitlement to the exemption. The person who purchased the work of art shall forward a copy of such affidavit to the Department of Revenue at the time it is issued to the vendor.

5. The exemption provided by subparagraph 2. applies only for the period during which a work of art is in the possession of the educational institution or is in storage before transfer of possession to that institution; and when it ceases to be so possessed or held, tax based upon the sales price paid by the owner is payable, and the statute of limitations provided in s. 95.091 shall begin to run at that time. Any educational institution which has received a work of art pursuant to this paragraph shall make available to the department information relating to the work of art. Any educational institution that transfers from its possession a work of art as defined by this paragraph must notify the Department of Revenue within 60 days after the transfer.

6. For purposes of the exemptions provided by this paragraph, the term “work of art” includes pictorial representations, sculpture, jewelry, antiques, stamp collections and coin collections, and other tangible personal property, the value of which is attributable predominantly to its artistic, historical, political, cultural, or social importance.

7. This paragraph is a remedial clarification of legislative intent and applies to all taxes that remain open to assessment or contest on July 1, 1992.

(ee) Taxicab leases.—The lease of or license to use a taxicab or taxicab-related equipment and services provided by a taxicab company to an independent taxicab operator are exempt, provided, however, the exemptions provided under this paragraph only apply if sales or use tax has been paid on the acquisition of the taxicab and its related equipment.

(ff) Aircraft repair and maintenance labor charges.—There shall be exempt from the tax imposed by this chapter all labor charges for the repair and maintenance of aircraft of more than 20,000 pounds maximum certified takeoff weight. Charges for parts and equipment furnished in connection with such labor charges are taxable.

(gg) Athletic event sponsors.—There shall be exempt from the tax imposed by this chapter sales or leases to those organizations which:

1.a. Are incorporated pursuant to chapter 617; and

b. Hold a current exemption from federal corporate income tax liability pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

2. Sponsor golf tournaments sanctioned by the PGA Tour, PGA of America, or the LPGA.

(hh) Electric vehicles.—Effective July 1, 1995, through June 30, 2000, the sale of an electric vehicle, as defined in s. 320.01, is exempt from the tax imposed by this chapter.

(ii) Certain electricity uses.—Charges for electricity used directly and exclusively at a fixed location in this state to operate machinery and equipment that is used to manufacture, process, compound, or produce items of tangible personal property for sale, or to operate pollution control equipment, recycling equipment, maintenance equipment, or monitoring or control equipment used in such operations are exempt from the tax imposed by this chapter as provided in subparagraph 2. The exemption provided for herein is applicable if the electricity that is used for the exempt purposes is separately metered, or if it is not separately metered, it is irrevocably presumed that 50 percent of the charge for electricity is for nonexempt purposes. This exemption only applies to industries classified under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39. As used in this paragraph, "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President. Possession by a seller of a written certification by the purchaser, certifying the purchaser's entitlement to an exemption permitted by this subsection, relieves the seller from the responsibility of collecting the tax on the nontaxable amounts, and the department shall look solely to the purchaser for recovery of such tax if it determines that the purchaser was not entitled to the exemption. Such exemption shall be applied as follows:

1. Beginning July 1, 1996, 20 percent of the charges for such electricity shall be exempt.

2. Beginning July 1, 1997, 40 percent of the charges for such electricity shall be exempt.
3. Beginning July 1, 1998, 60 percent of the charges for such electricity shall be exempt.
4. Beginning July 1, 1999, 80 percent of the charges for such electricity shall be exempt.
5. Beginning July 1, 2000, 100 percent of the charges for such electricity shall be exempt.

Notwithstanding any other provision in this paragraph to the contrary, in order to receive the exemption provided in this paragraph a taxpayer must register with the WAGES Program Business Registry established by the local WAGES coalition for the area in which the taxpayer is located. Such registration establishes a commitment on the part of the taxpayer to hire WAGES program participants to the maximum extent possible consistent with the nature of their business. In order to determine whether the exemption provided in this paragraph from the tax on charges for electricity has an effect on retaining or attracting companies to this state, the Office of Program Policy Analysis and Governmental Accountability shall periodically monitor and report on the industries receiving the exemption. The first report shall be submitted no later than January 1, 1997, and must be conducted in such a manner as to specifically determine the number of companies within each SIC Industry Major Group receiving the exemption as of September 1, 1996, and the number of individuals employed by companies within each SIC Industry Major Group receiving the exemption as of September 1, 1996. The second report shall be submitted no later than January 1, 2001, and must be comprehensive in scope, but, at a minimum, must be conducted in such a manner as to specifically determine the number of companies within each SIC Industry Major Group receiving the exemption as of September 1, 2000, the number of individuals employed by companies within each SIC Industry Major Group receiving the exemption as of September 1, 2000, whether the change, if any, in such number of companies or employees is attributable to the exemption provided in this paragraph, whether it would be sound public policy to continue or discontinue the exemption, and the consequences of doing so. Both reports shall be submitted to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.

(jj) Fair associations.—Also exempt from the tax imposed by this chapter is the sale, use, lease, rental, or grant of a license to use, made directly to or by a fair association, of real or tangible personal property; any charge made by a fair association, or its agents, for parking, admissions, or for temporary parking of vehicles used for sleeping quarters; rentals, subleases, and sublicenses of real or tangible personal property between the owner of the central amusement attraction and any owner of amusement devices and amusement attractions, as those terms are used in ss. 616.15(1)(b) and 616.242(3)(a) and (i), for the furnishing of amusement devices and amusement attractions at a public fair or exposition; and other transactions of a fair association which are incurred directly by the fair association in the

financing, construction, and operation of a fair, exposition, or other event or facility that is authorized by s. 616.08. As used in this paragraph, the terms “fair association” and “public fair or exposition” have the same meaning as those terms are defined in s. 616.001. This exemption does not apply to the sale of tangible personal property made by a fair association through an agent or independent contractor; sales of admissions and tangible personal property by a concessionaire, vendor, exhibitor, or licensee; or rentals and subleases of tangible personal property or real property between the owner of the central amusement attraction and a concessionaire, vendor, exhibitor, or licensee, except for the furnishing of amusement devices or amusement attractions, which transactions are exempt.

(kk) Citizen support organizations.—Beginning July 1, 1996, nonprofit organizations that are incorporated under chapter 617 or hold a current exemption from federal corporate income tax under s. 501(c)(3) of the Internal Revenue Code, as amended, and that have been designated citizen support organizations in support of state-funded environmental programs or the management of state-owned lands in accordance with s. 370.0205, or to support one or more state parks in accordance with s. 258.015 are exempt from the tax imposed by this chapter.

(ll) Florida Folk Festival.—There shall be exempt from the tax imposed by this chapter income of a revenue nature received from admissions to the Florida Folk Festival held pursuant to s. 267.16 at the Stephen Foster State Folk Culture Center, a unit of the state park system.

(mm) Solar energy systems.—Also exempt are solar energy systems or any component thereof. The Florida Solar Energy Center shall from time to time certify to the department a list of equipment and requisite hardware considered to be a solar energy system or a component thereof. This exemption is repealed July 1, 2002.

(nn) Nonprofit cooperative hospital laundries.—Nonprofit organizations that are incorporated under chapter 617 and which are treated, for federal income tax purposes, as cooperatives under subchapter T of the Internal Revenue Code, whose sole purpose is to offer laundry supplies and services to their members, which members must all be exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code, are exempt from the tax imposed by this chapter.

(oo) Complimentary meals.—Also exempt from the tax imposed by this part are food or drinks that are furnished as part of a packaged room rate by any person offering for rent or lease any transient living accommodations as described in s. 509.013(4)(a) which are licensed under part I of chapter 509 and which are subject to the tax under s. 212.03, if a separate charge or specific amount for the food or drinks is not shown. Such food or drinks are considered to be sold at retail as part of the total charge for the transient living accommodations. Moreover, the person offering the accommodations is not considered to be the consumer of items purchased in furnishing such food or drinks and may purchase those items under conditions of a sale for resale.

(pp) Nonprofit corporation conducting the correctional work programs.— Products sold pursuant to s. 946.515 by the corporation organized pursuant to part II of chapter 946 are exempt from the tax imposed by this chapter. This exemption applies retroactively to July 1, 1983.

(qq) Racing dogs.—The sale of a racing dog by its owner is exempt if the owner is also the breeder of the animal.

Exemptions provided to any entity by this subsection shall not inure to any transaction otherwise taxable under this chapter when payment is made by a representative or employee of such entity by any means, including, but not limited to, cash, check, or credit card even when that representative or employee is subsequently reimbursed by such entity.

Section 4. Section 212.09, Florida Statutes, is amended to read:

212.09 Trade-ins deducted.—

(1) Where used articles, accepted and intended for resale, are taken in trade, or a series of trades, as a credit or part payment on the sale of new articles, the tax levied by this chapter shall be paid on the sales price of the new article, less the credit for the used article taken in trade.

(2) Where used articles, accepted and intended for resale, are taken in trade, or a series of trades, as a credit or part payment on the sale of used articles, the tax levied by this chapter shall be paid on the sales price of the used article less the credit for the used article taken in trade.

(3) A person who is not registered with the department as a seller of aircraft, boats, mobile homes, or vehicles who is selling an aircraft, boat, mobile home, or vehicle and who takes in trade an item other than an aircraft, boat, mobile home, or vehicle may not use the item as a credit against sales price.

Section 5. Section 212.17, Florida Statutes, is amended to read:

212.17 Credits for returned goods, rentals, or admissions; goods acquired for dealer's own use and subsequently resold; additional powers of department.—

(1)(a) In the event purchases are returned to a ~~the~~ dealer by the purchaser or consumer after the tax imposed by this chapter has been collected from or charged to the account of the consumer or user, the dealer shall be entitled to reimbursement of the amount of tax collected or charged by the dealer, in the manner prescribed by the department; ~~and in case~~

(b) A registered dealer that purchases property for the dealer's own use, pays tax on acquisition, and sells the property subsequent to acquisition without ever having used the property is entitled to reimbursement, in the manner prescribed by the department, of the amount of tax paid on the property's acquisition.

(c) If the tax has not been remitted by a ~~the~~ dealer to the department, the dealer may deduct the same in submitting his or her return upon receipt of

a signed statement of the dealer as to the gross amount of such refunds during the period covered by said signed statement, which period shall not be longer than 90 days. The department shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for such tax collected or paid. Such memorandum shall be accepted by the department at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of this chapter. ~~If, provided, in cases where~~ a dealer has retired from business and has filed a final return, a refund of tax may be made if it can be established to the satisfaction of the department that the tax was not due.

(2) A dealer who has paid the tax imposed by this chapter on tangible personal property sold under a retained title, conditional sale, or similar contract, or under a contract wherein the dealer retains a security interest in the property pursuant to chapter 679, may take credit or obtain a refund for the tax paid by the dealer on the unpaid balance due him or her when he or she repossesses (with or without judicial process) the property within 12 months following the month in which the property was repossessed. When such repossessed property is resold, the sale is subject in all respects to the tax imposed by this chapter.

(3) A dealer who has paid the tax imposed by this chapter on tangible personal property or services may take a credit or obtain a refund for any tax paid by the dealer on the unpaid balance due on worthless accounts within 12 months following the month in which the bad debt has been charged off for federal income tax purposes. If any accounts so charged off for which a credit or refund has been obtained are thereafter in whole or in part paid to the dealer, the amount so paid shall be included in the first return filed after such collection and the tax paid accordingly.

(4) The department shall design, prepare, print and furnish to all dealers, or make available to said dealers, all necessary forms for filing returns and instructions to ensure a full collection from dealers and an accounting for the taxes due, but failure of any dealer to secure such forms shall not relieve such dealer from the payment of said tax at the time and in the manner herein provided.

(5) The department and its assistants are hereby authorized and empowered to administer the oath for the purpose of enforcing and administering the provisions of this chapter.

(6) The department shall have the power to make, prescribe and publish reasonable rules and regulations not inconsistent with this chapter, or the other laws, or the constitution of this state, or the United States, for the enforcement of the provisions of this chapter and the collection of revenue hereunder, and such rules and regulations shall when enforced be deemed to be reasonable and just.

(7) The department, where admissions, license fees, or rental payments or payments for services are made and thereafter returned to the payers after the taxes thereon have been paid, shall return or credit the taxpayer for taxes so paid on the moneys returned in the same manner as is provided

for returns or credits of taxes where purchases or tangible personal property are returnable to a dealer.

Section 6. Subsection (3) of section 212.18, Florida Statutes, is amended to read:

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

(3)(a) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps that are subject to tax under s. 212.03, or to lease, rent, or let or grant licenses in real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, must file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The department may appoint the county tax collector as the department's agent to accept applications for registrations. The application must be made to the department before the person, firm, copartnership, or corporation may engage in such business, and it must be accompanied by a registration fee of \$5. However, a registration fee is not required to accompany an application to engage in or conduct business to make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate is not assignable and is valid only for the person, firm, copartnership, or corporation to which issued. The certificate must be placed in a conspicuous place in the business or businesses for which it is issued and must be displayed at all times. Except as provided in this paragraph, no person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps that are taxable under this chapter, or real property, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department, is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s.

775.083, or subject to injunctive proceedings as provided by law. Such failure or refusal also subjects the offender to a \$100 initial registration fee in lieu of the \$5 registration fee authorized in this paragraph. However, the department may waive the increase in the registration fee if it is determined by the department that the failure to register was due to reasonable cause and not to willful negligence, willful neglect, or fraud.

(b) The department may revoke any dealer's certificate of registration when the dealer fails to comply with this chapter. Prior to revocation of a dealer's certificate of registration, the department must schedule an informal conference at which the dealer may present evidence regarding the department's intended revocation or enter into a compliance agreement with the department. The department must notify the dealer of its intended action and the time, place, and date of the scheduled informal conference by written notification sent by U.S. mail to the dealer's last known address of record furnished by the dealer on a form prescribed by the department. The dealer is required to attend the informal conference and present evidence refuting the department's intended revocation or enter into a compliance agreement with the department which resolves the dealer's failure to comply with this chapter. The department shall issue an administrative complaint under s. 120.60 if the dealer fails to attend the department's informal conference, fails to enter into a compliance agreement with the department resolving the dealer's noncompliance with this chapter, or fails to comply with the executed compliance agreement.

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

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

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

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

4. Any exhibitor who makes a mail order sale pursuant to s. 212.0596 must register as a dealer.

Any person who conducts a convention or a trade show must make their exhibitor's agreements available to the department for inspection and copying.

Section 7. This act shall take effect July 1, 1998.

Became a law without the Governor's approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.