

## CHAPTER 2014-40

### Committee Substitute for House Bill No. 7081

An act relating to tax administration; amending s. 196.1995, F.S.; requiring certain real property improvements and tangible personal property additions to occur within a specified period in order to qualify for a specified ad valorem tax exemption; amending s. 212.03, F.S.; providing that certain charges for the impoundment of an aircraft, boat, or motor vehicle by a law enforcement agency are not subject to taxation; amending s. 212.07, F.S.; conforming a cross-reference; providing that a dealer who willfully fails to collect certain taxes or fees after the Department of Revenue provides notice commits a criminal offense; providing civil and criminal penalties; amending s. 212.12, F.S.; deleting provisions providing criminal and civil penalties for failing to register a business as a dealer and for failing to collect specified taxes after the department provides notice; amending s. 212.14, F.S.; authorizing the department to adopt rules; defining the term "person"; amending s. 212.18, F.S.; providing that a person who engages in acts requiring a certificate of registration and willfully fails to register after the department provides notice commits a criminal offense; providing criminal penalties; reenacting s. 212.20(6)(c), F.S., relating to the disposition of funds collected from the imposition of specified fees, to incorporate the amendments made by the act to s. 212.18(3), F.S., in a reference thereto; amending s. 213.0535, F.S.; providing that certain tax data may be published as statistics under certain circumstances; amending s. 213.13, F.S.; revising the date for transmitting certain funds collected by the clerks of court to the department; amending s. 213.21 F.S.; authorizing the department to delegate to the executive director of the department greater compromise authority for closing agreements; creating s. 213.295, F.S.; providing definitions; providing that a person who knowingly sells, purchases, installs, transfers, possesses, uses, or accesses an automated sales suppression device, a zapper, or phantom-ware commits a criminal offense; providing civil and criminal penalties; providing that automated sales suppression devices, zappers, and phantom-ware are contraband articles; amending s. 443.131, F.S.; requiring employers to produce certain records in order to receive a reduced contribution rate; amending s. 443.141, F.S.; revising the interest rate for unpaid employer contributions or reimbursements; increasing the number of days during which an employer may protest a determination and assessment; providing that certain local ordinances conveying ad valorem tax exemptions shall not be invalidated on specified grounds if the local governing body acted in accordance with this act; providing effective dates.

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

Section 1. Subsection (5) of section 196.1995, Florida Statutes, is amended to read:

196.1995 Economic development ad valorem tax exemption.—

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, provided that the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an enterprise zone or brownfield area. Property acquired to replace existing property shall not be considered to facilitate a business expansion. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, regardless of any change in the authority of the county or municipality to grant such exemptions. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

Section 2. Subsection (6) of section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.

(6) ~~The Legislature finds It is the legislative intent that every person is engaging in a taxable privilege~~ It is the legislative intent that every person is engaging in a taxable privilege who leases or rents parking or storage spaces for motor vehicles in parking lots or garages, including storage facilities for towed vehicles, who leases or rents docking or storage spaces for boats in boat docks or marinas, or who leases or rents tie-down or storage space for aircraft at airports is engaging in a taxable privilege.

(a) For the exercise of this privilege, a tax is hereby levied at the rate of 6 percent on the total rental charged.

(b) Charges for parking, docking, tie-down, or storage arising from a lawful impoundment are not subject to taxation under this subsection. As used in this paragraph, the term “lawful impoundment” means the storing of

or having custody over an aircraft, boat, or motor vehicle by, or at the direction of, a local, state, or federal law enforcement agency which the owner or the owner's representative is not authorized to enter upon, have access to, or remove without the consent of the law enforcement agency.

Section 3. Effective July 1, 2014, paragraph (b) of subsection (1) and subsection (3) of section 212.07, Florida Statutes, 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)

(b) A resale must be in strict compliance with s. 212.18 and the rules and regulations adopted thereunder. ~~A, and any~~ dealer who makes a sale for resale that ~~which~~ is not in strict compliance with s. 212.18 and the rules and regulations adopted thereunder is ~~shall himself or herself~~ be liable for and must pay the tax. ~~A~~ Any dealer who makes a sale for resale shall document the exempt nature of the transaction, as established by rules adopted ~~promulgated~~ by the department, by retaining a copy of the purchaser's resale certificate. In lieu of maintaining a copy of the certificate, a dealer may document, before ~~prior to~~ the time of sale, an authorization number provided telephonically or electronically by the department, or by such other means established by rule of the department. The dealer may rely on a resale certificate issued pursuant to s. 212.18(3)(d) ~~s. 212.18(3)(e)~~, valid at the time of receipt from the purchaser, without seeking annual verification of the resale certificate if the dealer makes recurring sales to a purchaser in the normal course of business on a continual basis. For purposes of this paragraph, "recurring sales to a purchaser in the normal course of business" refers to a sale in which the dealer extends credit to the purchaser and records the debt as an account receivable, or in which the dealer sells to a purchaser who has an established cash or C.O.D. account, similar to an open credit account. For purposes of this paragraph, purchases are made from a selling dealer on a continual basis if the selling dealer makes, in the normal course of business, sales to the purchaser at least no less frequently than once in every 12-month period. A dealer may, through the informal protest provided for in s. 213.21 and the rules of the department of Revenue, provide the department with evidence of the exempt status of a sale. Consumer certificates of exemption executed by those exempt entities that were registered with the department at the time of sale, resale certificates provided by purchasers who were active dealers at the time of sale, and verification by the department of a purchaser's active dealer status at the time of sale in lieu of a resale certificate shall be accepted by the department when submitted during the protest period, but may not be accepted in any proceeding under chapter 120 or any circuit court action instituted under chapter 72.

(3)(a) A ~~Any~~ dealer who fails, neglects, or refuses to collect the tax or fees imposed under this chapter herein provided, ~~either by himself or herself or~~

through the dealer's agents or employees, is, in addition to the penalty of being liable for and paying the tax or fee himself or herself, commits guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A dealer who willfully fails to collect a tax or fee after the department provides notice of the duty to collect the tax or fee is liable for a specific penalty of 100 percent of the uncollected tax or fee. This penalty is in addition to any other penalty that may be imposed by law. A dealer who willfully fails to collect taxes or fees totaling:

1. Less than \$300:

a. For a first offense, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

b. For a second offense, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

c. For a third or subsequent offense, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. An amount equal to \$300 or more, but less than \$20,000, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. An amount equal to \$20,000 or more, but less than \$100,000, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. An amount equal to \$100,000 or more, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) The department shall provide written notice of the duty to collect taxes or fees to the dealer by personal service or by sending notice to the dealer's last known address by registered mail. The department may provide written notice using both methods described in this paragraph.

Section 4. Effective July 1, 2014, paragraph (d) of subsection (2) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(2)

(d) A Any person who makes a false or fraudulent return and who has with a willful intent to evade payment of any tax or fee imposed under this chapter is; any person who, after the department's delivery of a written notice to the person's last known address specifically alerting the person of

the requirement to register the person's business as a dealer, intentionally fails to register the business; and any person who, after the department's delivery of a written notice to the person's last known address specifically alerting the person of the requirement to collect tax on specific transactions, intentionally fails to collect such tax, shall, in addition to the other penalties provided by law, be liable for a specific penalty of 100 percent of any unreported or any uncollected tax or fee. This penalty is in addition to any other penalty provided by law. A person who makes a false or fraudulent return with a willful intent to evade payment of taxes or fees totaling:

1. Less than \$300:

a. For a first offense, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

b. For a second offense, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

c. For a third or subsequent offense, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. An amount equal to \$300 or more, but less than \$20,000, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. An amount equal to \$20,000 or more, but less than \$100,000, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. An amount equal to \$100,000 or more, commits a felony of the first degree, punishable and, upon conviction, for fine and punishment as provided in s. 775.082, s. 775.083, or s. 775.084. Delivery of written notice may be made by certified mail, or by the use of such other method as is documented as being necessary and reasonable under the circumstances. The civil and criminal penalties imposed herein for failure to comply with a written notice alerting the person of the requirement to register the person's business as a dealer or to collect tax on specific transactions shall not apply if the person timely files a written challenge to such notice in accordance with procedures established by the department by rule or the notice fails to clearly advise that failure to comply with or timely challenge the notice will result in the imposition of the civil and criminal penalties imposed herein.

1. ~~If the total amount of unreported or uncollected taxes or fees is less than \$300, the first offense resulting in conviction is a misdemeanor of the second degree, the second offense resulting in conviction is a misdemeanor of the first degree, and the third and all subsequent offenses resulting in conviction is a misdemeanor of the first degree, and the third and all subsequent offenses resulting in conviction are felonies of the third degree.~~

2. ~~If the total amount of unreported or uncollected taxes or fees is \$300 or more but less than \$20,000, the offense is a felony of the third degree.~~

~~3.— If the total amount of unreported or uncollected taxes or fees is \$20,000 or more but less than \$100,000, the offense is a felony of the second degree.~~

~~4.— If the total amount of unreported or uncollected taxes or fees is \$100,000 or more, the offense is a felony of the first degree.~~

Section 5. Effective July 1, 2014, subsection (4) of section 212.14, Florida Statutes, is amended to read:

212.14 Departmental powers; hearings; distress warrants; bonds; subpoenas and subpoenas duces tecum.—

(4) In all cases where it is necessary to ensure compliance with ~~the provisions of this chapter~~, the department shall require a cash deposit, bond, or other security as a condition to a person obtaining or retaining a dealer's certificate of registration under this chapter. Such bond ~~must shall~~ be in the form and ~~such~~ amount as the department deems appropriate under the particular circumstances. ~~A Every~~ person failing to produce such cash deposit, bond, or other security ~~is as provided for herein shall not be entitled to obtain or retain a dealer's certificate of registration under this chapter, and the Department of Legal Affairs is hereby authorized to proceed by injunction, if when so requested by the Department of Revenue, to prevent such person from doing business subject to the provisions of this chapter until such cash deposit, bond, or other security is posted with the department, and any temporary injunction for this purpose may be granted by any judge or chancellor authorized by law to grant injunctions. Any security required to be deposited may be sold by the department at public sale if it becomes necessary so to do in order to recover any tax, interest, or penalty due. Notice of such sale may be served personally or by mail upon the person who deposited the such security. If by mail, notice sent to the last known address as it the same appears on the records of the department is shall be sufficient for the purpose of this requirement. Upon such sale, the surplus, if any, above the amount due under this chapter shall be returned to the person who deposited the security. The department may adopt rules necessary to administer this subsection. For the purpose of the cash deposit, bond, or other security required by this subsection, the term "person" includes:~~

(a) Those entities listed in s. 212.02(12).

(b) An individual or entity owning a controlling interest in a business.

(c) An individual or entity that acquired an ownership interest or a controlling interest in a business that would otherwise be liable for posting a cash deposit, bond, or other security, unless the department has determined that the individual or entity is not liable for the taxes, interest, or penalties described in s. 213.758.

(d) An individual or entity seeking to obtain a dealer's certificate of registration for a business that will be operated at the same location as a

previous business that would otherwise have been liable for posting a cash deposit, bond, or other security, if the individual or entity fails to provide evidence that the business was acquired for consideration in an arms-length transaction.

Section 6. Effective July 1, 2014, subsection (3) of section 212.18, Florida Statutes, is amended to read:

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

(3)(a) ~~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 a 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. The application must include, ~~showing~~ the names of the persons who have interests in such business and their residences, the address of the business, and ~~such~~ other data reasonably required by ~~as the department may reasonably require.~~ However, owners and operators of vending machines or newspaper rack machines are required to obtain only one certificate of registration for each county in which such machines are located. The department, by rule, may authorize a dealer that uses independent sellers to sell its merchandise to remit tax on the retail sales price charged to the ultimate consumer in lieu of having the independent seller register as a dealer and remit the tax. The department may appoint the county tax collector as the department's agent to accept applications for registrations. The application must be submitted ~~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 may waive the registration fee for applications submitted through the department's Internet registration process.

(b) The department, upon receipt of such application, shall ~~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 it is 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 subsection, ~~a~~ no person may not ~~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, or as hereinbefore defined, ~~nor shall any person~~ sell or receive anything of value by

way of admissions, without a valid first having obtained such a certificate. A or after such certificate has been canceled; no person may not shall receive a any license from any authority within the state to engage in any such business without a valid certificate first having obtained such a certificate or after such certificate has been canceled. A person may not engage The engaging in the business of selling or leasing tangible personal property or services ~~or as a dealer; engage, 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 engage the engaging in the business of selling or receiving anything of value by way of admissions, without a valid such certificate ~~first being obtained or after such certificate has been canceled by~~ the department, is prohibited.

(c)1. A The failure or refusal of any person who engages in acts requiring a certificate of registration under this subsection and who fails or refuses to register ~~commits, 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. ~~Such acts are, or~~ subject to injunctive proceedings as provided by law. A person who engages in acts requiring a certificate of registration and who fails or refuses to register is also subject Such failure or refusal also subjects the offender to a \$100 initial registration fee in lieu of the \$5 registration fee ~~required by authorized in~~ paragraph (a). However, the department may waive the increase in the registration fee if it finds is determined by the department that the failure to register was due to reasonable cause and not to willful negligence, willful neglect, or fraud.

2.a. A person who willfully fails to register after the department provides notice of the duty to register as a dealer commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. The department shall provide written notice of the duty to register to the person by personal service or by sending notice by registered mail to the person's last known address. The department may provide written notice by both methods described in this sub-subparagraph.

(d)(e) In addition to the certificate of registration, the department shall provide to each newly registered dealer an initial resale certificate that will be valid for the remainder of the period of issuance. The department shall provide each active dealer with an annual resale certificate. For purposes of this section, the term “active dealer” means a person who is currently registered with the department and who is required to file at least once during each applicable reporting period.

(e)(d) The department may revoke a any dealer's certificate of registration ~~if when~~ the dealer fails to comply with this chapter. ~~Before~~ 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 United States 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.

(f)(e) 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 by ~~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 by ~~in~~ this chapter must register as a dealer and collect the tax ~~imposed under this chapter~~ on such sales.

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

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

Section 7. Effective July 1, 2014, for the purpose of incorporating the amendment made by this act to subsection (3) of section 212.18, Florida Statutes, in a reference thereto, paragraph (c) of subsection (6) of section 212.20, Florida Statutes, is reenacted to read:

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

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(c) Proceeds from the fees imposed under ss. 212.05(1)(h)3. and 212.18(3) shall remain with the General Revenue Fund.

Section 8. Subsection (5) of section 213.0535, Florida Statutes, is amended to read:

213.0535 Registration Information Sharing and Exchange Program.—

(5) ~~A Any~~ provision of law imposing confidentiality upon data shared under this section, including, but not limited to, ~~a any~~ provision imposing penalties for disclosure, applies to recipients of this data and their employees. Data exchanged under this section may not be provided to ~~a any~~ person or entity other than a person or entity administering the tax or licensing provisions of those provisions of law enumerated in paragraph (4)(a), and such data may not be used for any purpose other than for enforcing those tax or licensing provisions. This section does not prevent a level-two participant from publishing statistics classified so as to prevent the identification of particular accounts, reports, declarations, or returns. However, statistics may not be published if they contain data pertaining to fewer than three taxpayers or if the statistics are prepared for geographic areas below the county level and contain data pertaining to fewer than 10 taxpayers. Statistics published under this subsection must relate only to tourist development taxes imposed under s. 125.0104, the tourist impact tax imposed under s. 125.0108, convention development taxes imposed under s. 212.0305, or the municipal resort tax authorized under chapter 67-930, Laws of Florida.

Section 9. Subsection (5) of section 213.13, Florida Statutes, is amended to read:

213.13 Electronic remittance and distribution of funds collected by clerks of the court.—

(5) All court-related collections, including fees, fines, reimbursements, court costs, and other court-related funds that the clerks must remit to the state pursuant to law, must be transmitted electronically by the 10th ~~20th~~ day of the month immediately following the month in which the funds are collected.

Section 10. Paragraph (a) of subsection (2) of section 213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.—

(2)(a) The executive director of the department or his or her designee is authorized to enter into closing agreements with any taxpayer settling or compromising the taxpayer's liability for any tax, interest, or penalty assessed under any of the chapters specified in s. 72.011(1). Such agreements must ~~shall~~ be in writing if when the amount of tax, penalty, or interest compromised exceeds \$30,000, or for lesser amounts, if when the department deems it appropriate or if when requested by the taxpayer. When a written

closing agreement has been approved by the department and signed by the executive director or his or her designee and the taxpayer, it shall be final and conclusive; and, except upon a showing of fraud or misrepresentation of material fact or except as to adjustments pursuant to ss. 198.16 and 220.23, no additional assessment may be made by the department against the taxpayer for the tax, interest, or penalty specified in the closing agreement for the time period specified in the closing agreement, and the taxpayer ~~is~~ shall not be entitled to institute any judicial or administrative proceeding to recover any tax, interest, or penalty paid pursuant to the closing agreement. The department is authorized to delegate to the executive director the authority to approve any such closing agreement resulting in a tax reduction of ~~\$500,000~~ \$250,000 or less.

Section 11. Effective July 1, 2014, section 213.295, Florida Statutes, is created to read:

213.295 Automated sales suppression devices.—

(1) As used in this section, the term:

(a) “Automated sales suppression device” or “zapper” means a software program that falsifies the electronic records of electronic cash registers or other point-of-sale systems, including, but not limited to, transaction data and transaction reports. The term includes the software program, any device that carries the software program, or an Internet link to the software program.

(b) “Electronic cash register” means a device that keeps a register or supporting documents through the use of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data.

(c) “Phantom-ware” means a hidden programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register which may be used to create a second set of records or eliminate or manipulate transaction records, which may or may not be preserved in digital formats, to represent the true or manipulated record of transactions in the electronic cash register.

(d) “Transaction data” includes:

1. The identification of items purchased by a customer.
2. The price charged for each item.
3. A taxability determination for each item.
4. A segregated tax amount for each of the taxed items.
5. The amount of cash or credit tendered.

6. The net amount returned to the customer in change.
7. The date and time of the purchase.
8. The name, address, and identification number of the vendor.
9. The receipt or invoice number of the transaction.

(e) “Transaction report” means:

1. A report printed on cash register tape at the end of a day or shift that contains information including, but not limited to, the sales, taxes, or fees collected, media totals, and discount voids on an electronic cash register; or

2. A report that is stored electronically which documents every action on an electronic cash register.

(2) A person may not knowingly sell, purchase, install, transfer, possess, use, or access an automated sales suppression device, a zapper, or phantom-ware.

(3) A person who violates this section:

(a) Commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Is liable for all taxes, fees, penalties, and interest due the state which result from the use of an automated sales suppression device, a zapper, or phantom-ware.

(c) Shall forfeit to the state as an additional penalty all profits associated with the sale or use of an automated sales suppression device, a zapper, or phantom-ware.

(4) An automated sales suppression device, a zapper, phantom-ware, or any device containing such device or software is a contraband article as provided in s. 932.701(2)(a) and may be seized and forfeited pursuant to the Florida Contraband Forfeiture Act.

Section 12. Paragraph (h) of subsection (3) of section 443.131, Florida Statutes, is amended to read:

443.131 Contributions.—

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

(h) *Additional conditions for variation from the standard rate.*—An employer’s contribution rate may not be reduced below the standard rate under this section unless:

1. All contributions, reimbursements, interest, and penalties incurred by the employer for wages paid by him or her in all previous calendar quarters, except the 4 calendar quarters immediately preceding the calendar quarter or calendar year for which the benefit ratio is computed, are paid; and

2. The employer has produced for inspection and copying all work records in his or her possession, custody, or control which were requested by the Department of Economic Opportunity or its tax collection service provider pursuant to s. 443.171(5). An employer shall have at least 60 days to provide the requested work records before the employer is assigned the standard rate; and

~~3.2.~~ The employer entitled to a rate reduction must have at least one annual payroll as defined in subparagraph (b)1. unless the employer is eligible for additional credit under the Federal Unemployment Tax Act. If the Federal Unemployment Tax Act is amended or repealed in a manner affecting credit under the federal act, this section applies only to the extent that additional credit is allowed against the payment of the tax imposed by the Federal Unemployment Tax act.

The tax collection service provider shall assign an earned contribution rate to an employer ~~for under subparagraph 1.~~ the quarter immediately after the quarter in which all contributions, reimbursements, interest, and penalties are paid in full and all work records requested pursuant to s. 443.171(5) are produced for inspection and copying by the Department of Economic Opportunity or the tax collection service provider.

Section 13. Effective January 1, 2015, paragraph (a) of subsection (1) and paragraph (b) of subsection (2) of section 443.141, Florida Statutes, are amended to read:

443.141 Collection of contributions and reimbursements.—

(1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT, ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.

(a) *Interest.*—Contributions or reimbursements unpaid on the date due bear interest at the rate of 1 percent per month through December 31, 2014. Beginning January 1, 2015, the interest rate shall be calculated in accordance with s. 213.235, except that the rate of interest may not exceed 1 percent per month from and after ~~the~~ that date due until payment plus accrued interest is received by the tax collection service provider, unless the service provider finds that the employing unit has good reason for failing to pay the contributions or reimbursements when due. Interest collected under this subsection must be paid into the Special Employment Security Administration Trust Fund.

(2) REPORTS, CONTRIBUTIONS, APPEALS.—

(b) *Hearings.*—The determination and assessment are final 20 ~~15~~ days after the date the assessment is mailed unless the employer files with the tax

collection service provider within the 20 15 days a written protest and petition for hearing specifying the objections thereto. The tax collection service provider shall promptly review each petition and may reconsider its determination and assessment in order to resolve the petitioner's objections. The tax collection service provider shall forward each unresolved petition ~~remaining unresolved~~ to the department for a hearing on the objections. Upon receipt of a petition, the department shall schedule a hearing and notify the petitioner of the time and place of the hearing. The department may appoint special deputies to conduct hearings who shall ~~and to~~ submit their findings together with a transcript of the proceedings before them and their recommendations to the department for its final order. Special deputies are subject to the prohibition against ex parte communications in s. 120.66. At any hearing conducted by the department or its special deputy, evidence may be offered to support the determination and assessment or to prove it is incorrect. In order to prevail, however, the petitioner must ~~either~~ prove that the determination and assessment are incorrect or file full and complete corrected reports. Evidence may also be submitted ~~at the hearing~~ to rebut the determination by the tax collection service provider that the petitioner is an employer under this chapter. Upon evidence taken before it or upon the transcript submitted to it with the findings and recommendation of its special deputy, the department shall ~~either~~ set aside the tax collection service provider's determination that the petitioner is an employer under this chapter or reaffirm the determination. The amounts assessed under the final order, together with interest and penalties, must be paid within 15 days after notice of the final order is mailed to the employer, unless judicial review is instituted in a case of status determination. Amounts due when the status of the employer is in dispute are payable within 15 days after the entry of an order by the court affirming the determination. However, a ~~any~~ determination that an employing unit is not an employer under this chapter does not affect the benefit rights of an ~~any~~ individual as determined by an appeals referee or the commission unless:

1. The individual is made a party to the proceedings before the special deputy; or
2. The decision of the appeals referee or the commission has not become final or the employing unit and the department were not made parties to the proceedings before the appeals referee or the commission.

Section 14. A local ordinance enacted pursuant to s. 196.1995, Florida Statutes, before the effective date of this act shall not be invalidated on the ground that improvements to real property were made or that tangible personal property was added or increased before the date that such ordinance was adopted, as long as the local governing body acted substantially in accordance with s. 196.1995(5), Florida Statutes, as amended by this act.

Section 15. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor May 12, 2014.

Filed in Office Secretary of State May 12, 2014.