

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of State Fire Marshal**

RULE NO.:                    RULE TITLE:  
 69A-60.006                Manufactured and Prototype  
    Buildings

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 25, June 24, 2011 issue of the Florida Administrative Weekly has been withdrawn.

**Section IV  
 Emergency Rules**

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NO.:                    RULE TITLE:  
 12AER11-14                Sales of Clothing and School  
    Supplies during the Period August  
    12 through August 14, 2011

**SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:** Section 36, Chapter 2011-76, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement the provisions of the law specifying a period during which the sale of certain clothing, and school supplies are exempt from sales and use tax. The law provides that conditions necessary for an emergency rule have been met. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate means regarding the exemption during the period from 12:01 a.m., August 12, 2011 through 11:59 p.m., August 14, 2011, for sales of clothing, wallets, or bags having a selling price of \$75 or less per item and for sales of school supplies having a selling price of \$15 per item or less. The exemption does not apply to sales within a theme park or entertainment complex as defined in Section 509.013(9), F.S., or within a public lodging establishment as defined in Section 509.013(4), F.S., or within an airport as defined in Section 330.27(2), F.S. The rule defines “clothing,” “school supplies,” “theme park or entertainment complex,” “public lodging establishment,” “airport” and “mail order sales.” The rule describes the items that are included in the exemption and explains how various transactions are to be handled for purposes of the exemption, including sales of sets of both exempt and taxable items, items normally sold as a unit, mail order sales, shipping and handling charges, layaway sales, rain checks, exchanges, refunds, coupons, rebates, and discounts, repairs and alterations, gift certificates, rentals of clothing, reporting requirements, documentation to be maintained, and merchant’s license fees. The rule provides a list of items and their taxable status during the exemption period for clothing and school supplies.

**REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES:** The Legislature expressly authorized the promulgation of an emergency rule to administer the provisions of Section 36, Chapter 2011-76, Laws of Florida, which specify a period during which the sale of certain clothing and school supplies are exempt from sales and use tax. Additionally, an emergency rule is the most expedient and appropriate means of notifying dealers and taxpayers of the provisions of Section 36, Chapter 2011-76, Laws of Florida.

**SUMMARY:** Emergency Rule 12AER11-14 notifies the general public and retailers of the exemption during the period from 12:01 a.m., August 12, 2011 through 11:59 p.m., August 14, 2011, for sales of clothing, wallets, or bags having a selling price of \$75 or less per item and for sales of school supplies having a selling price of \$15 per item or less.

**THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS:** Gary Gray, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6777

**THE FULL TEXT OF THE EMERGENCY RULE IS:**

12AER11-14 Sales of Clothing and School Supplies During the Period August 12 through August 14, 2011.

(1) Clothing Sales.

(a) Beginning at 12:01 a.m. on August 12, 2011, and ending at 11:59 p.m. on August 14, 2011 (the exemption period), no tax is due on the sale or purchase of any article of clothing, wallet, or bag, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, with a selling price of \$75.00 or less. This exemption does not apply to sales of clothing, wallets, or bags within a theme park, entertainment complex, public lodging establishment, or airport.

(b)1. The sales tax exemption applies to each eligible item of clothing, wallet, or bag, selling for \$75.00 or less. The exemption applies regardless of how many items are sold on the same invoice to a customer.

2. Example: A customer purchases two shirts for \$40.00 each. Both items will qualify for the exemption, even though the customer’s total purchase price (\$80.00) exceeds \$75.00.

(c)1. The exemption does not apply to the first \$75.00 of price of an eligible item of clothing, wallet, or bag, selling for more than \$75.00.

2. Example: A customer purchases a pair of pants costing \$79.95. Tax is due on the entire \$79.95.

(2) Exempt Sales of School Supplies.

(a) Beginning at 12:01 a.m. on August 12, 2011, and ending at 11:59 p.m. on August 14, 2011 (the exemption period), no tax is due on the sale or purchase of any item of school supplies with a selling price of \$15.00 or less. This

exemption does not apply to sales of school supplies within a theme park, entertainment complex, public lodging establishment, or airport.

(b)1. The sales tax exemption applies to each eligible item of school supplies selling for \$15.00 or less. The exemption applies regardless of how many items are sold on the same invoice to a customer.

2. Example: A customer purchases ten composition books for \$2.50 each. All ten items will qualify for the exemption, even though the customer's total purchase price (\$25.00) exceeds \$15.00.

(c)1. The exemption does not apply to the first \$15.00 of price of an eligible item of school supplies selling for more than \$15.00.

2. Example: A customer purchases a calculator costing \$18.00. Tax is due on the entire \$18.00.

### (3) Definitions.

(a) "Clothing" means any article of wearing apparel, including all footwear, except skis, swim fins, in-line skates, and other skates, intended to be worn on or about the human body. "Clothing" does not include watches, watchbands, jewelry, umbrellas, or handkerchiefs.

(b) "School supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue, paste, rulers, computer disks, protractors, compasses, and calculators.

(c) "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

(d)1. "Public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. License classifications of public lodging establishments, and the definitions therefor, are set out in Section 509.242, F.S. For the purpose of licensure, the term does not include condominium common elements as defined in Section 718.103, F.S.

2. The following are excluded from the definition in subparagraph 1.:

a. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;

b. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Family Services or other similar place regulated under Section 381.0072, F.S.;

c. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;

d. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

e. Any migrant labor camp or residential migrant housing permitted by the Department of Health, under Sections 381.008-381.00895, F.S.; and

f. Any establishment inspected by the Department of Health and regulated by Chapter 513, F.S.

(e) "Airport" means an area of land or water used for, or intended to be used for, landing and takeoff of aircraft, accessory or relative areas, buildings, facilities, or rights-of-way necessary to facilitate such use or intended use.

(f) "Mail order sale" is a sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported, whether or not by mail, from any jurisdiction of the United States, including this state, to a person in this state, including the person who ordered the property.

### (4) Sales of Sets Containing Both Exempt and Taxable Items.

(a) When exempt items are normally sold together with taxable merchandise as a set or single unit, the full price is subject to sales tax.

(b) Example: A gift set consisting of a wallet and key chain is sold for a single price of \$35.00. Although the wallet would otherwise be exempt during the exemption period, the full price of the gift set is taxable because the key chain is taxable.

(c) Example: A desk set consisting of a stapler and a pair of scissors is sold for a single price of \$9.95. Although the scissors would otherwise be exempt during the exemption period, the full price of the desk set is taxable because the stapler is taxable.

### (5) Articles Normally Sold as a Unit.

(a) Articles that are normally sold as a unit must continue to be sold in that manner; they cannot be separately stated and sold as individual items in order to obtain the exemption.

(b) Example: A pair of shoes normally sells for \$80.00. The pair cannot be split in order to sell each shoe for \$40.00 to qualify for the exemption.

(c) Example: A suit is normally priced at \$125.00 on a single price tag. The suit cannot be split into separate articles so that any of the components may be sold for \$75.00 or less in order to qualify for the exemption. However, components that are normally priced as separate articles may continue to be sold as separate articles and qualify for the exemption if the price of an article is \$75.00 or less.

(d) Example: A pen and pencil set is normally priced at \$18.00 on a single price tag. The set cannot be split into separate articles so that either of the components may be sold for \$15.00 or less in order to qualify for the exemption.

(6) Buy One, Get One Free or for a Reduced Price.

(a) The total price of items advertised as “buy one, get one free,” or “buy one, get one for a reduced price,” cannot be averaged in order for both items to qualify for the exemption.

(b) Example: A retailer advertises pants as “buy one, get one free.” The first pair of pants is priced at \$80.00; the second pair of pants is free. Tax is due on \$80.00. The store cannot sell each pair of pants for \$40.00 in order for the items to qualify for the exemption. However, the retailer may advertise and sell the items for 50% off, selling each pair of \$80.00 pants for \$40.00, making each pair eligible for the exemption.

(c) Example: A retailer advertises shoes as “buy one pair at the regular price, get a second pair for half price.” The first pair of shoes is sold for \$80.00; the second pair is sold for \$40.00 (half price). Tax is due on the \$80.00 shoes, but not on the \$40.00 shoes. The store cannot sell each pair of shoes for \$60.00 in order for the items to qualify for the exemption. However, a retailer may advertise the pairs for 25% off, thereby selling each pair of \$80.00 shoes for \$60.00, making each pair eligible for the exemption.

(7) Mail Order Sales.

(a) For purposes of this exemption, eligible items purchased by mail order, including sales transactions over the Internet, will receive the exemption if the order is accepted by the mail order company during the exemption period for immediate shipment. When the acceptance of the order by the mail order company occurs during the exemption period, the exemption will apply even if delivery is made after the exemption period.

(b) An order is accepted by the mail order company when it has taken an action to fill the order for immediate shipment. Actions to fill an order include, but are not limited to, placing an “in date” stamp on a mail order, assigning an “order number” to a telephone order, or confirming an Internet order by e-mail message.

(c) An order is for immediate shipment when delayed shipment is not requested by the customer. An order is for immediate shipment notwithstanding that the shipment may be delayed because of a backlog of orders or because stock is currently unavailable to, or on back order by, the company.

(8) Shipping and Handling Charges.

(a) Shipping and handling charges are included as part of the sales price of the eligible item, whether or not separately stated. If multiple items are shipped on a single invoice, to determine if any items qualify for the exemption, the shipping and handling charge must be proportionately allocated to each item ordered, and separately identified on the invoice.

(b) Example 1: A customer orders a jacket for \$75.00. The shipping charge to deliver the jacket to the customer is \$5.00. The selling price of the jacket is \$80.00. Tax is due on the full selling price.

(c) Example 2. A customer orders a suit for \$300.00 and a shirt for \$40.00. The transportation charge to deliver the items is \$15.00. The \$15.00 transportation charge must be proportionately and separately allocated between the items:  $\$300 / \$340 = 88\%$ ; therefore, 88% of the \$15.00 shipping charge, or \$13.20, must be allocated to the suit, and separately identified on the invoice as such. The remaining 12% of the \$15.00 shipping charge, or \$1.80, must be allocated to the shirt, and separately identified on the invoice as such. The selling price of the shirt is \$40.00 plus \$1.80, totaling \$41.80, and therefore qualifying for the exemption.

<u>Suite</u>	<u>\$300.00</u>
<u>Shipping for suit</u>	<u>13.20</u>
<u>Shirt</u>	<u>40.00</u>
<u>Shipping For shirt</u>	<u>1.80</u>

(d) Example 3. A customer orders a suit for \$300.00 and a shirt for \$70.00. The transportation charge to deliver the items is \$50.00. The \$50.00 transportation charge must be proportionately and separately allocated between the items:  $\$300 / \$370 = 81\%$ . Therefore, 81% of the \$50.00 shipping charge, or \$40.50, must be allocated to the suit, and separately identified on the invoice as such. The remaining 19% of the \$50.00 shipping charge, or \$9.50, must be allocated to the shirt, and separately identified on the invoice as such. The selling price of the shirt is \$70.00 plus \$9.50, totaling \$79.95. Since the selling price of the shirt exceeds \$75.00, the purchase of the shirt is taxable.

<u>Suit</u>	<u>\$300.00</u>
<u>Shipping for suit</u>	<u>40.50</u>
<u>Shirt</u>	<u>70.00</u>
<u>Shipping For shirt</u>	<u>9.50</u>

(9) Layaway sales. A layaway sale is a transaction in which merchandise is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and receives the merchandise at the end of the payment period.

(a) For purposes of this exemption, eligible items will qualify for the exemption if:

1. A retailer and a customer enter into a contract for a layaway sale for an exempt item during the exemption period;
2. The customer makes the usual deposit in accordance with the retailer’s layaway policy;

3. The merchandise [exempt item(s)] is segregated from the retailer's inventory; and

4. The final payment is made during or after the exemption period.

(b) If final payment on a layaway order is made by and the merchandise is given to the customer during the exemption period, that sale of eligible items will qualify for the exemption, even when the qualified items were placed on layaway before the exemption period.

(10) Rain checks. Eligible items purchased during the exemption period using a rain check will qualify for the exemption regardless of when the rain check was issued. However, issuance of a rain check during the exemption period will not qualify eligible items for the exemption if the item is actually purchased after the exemption period.

(11) Exchanges.

(a) If a customer purchases an eligible item during the exemption period, then later exchanges the item for the same item (different size, different color, etc.), no additional tax will be due even if the exchange is made after the exemption period.

(b) If a customer purchases an eligible item during the exemption period, then later returns the item and receives credit on the purchase of a different item, the appropriate sales tax will apply to the sale of the newly purchased item.

(c) Examples:

1. During the exemption period, a customer purchases a \$75.00 dress that qualifies for the exemption. Later, during the exemption period, the customer exchanges the \$75.00 dress for a \$100.00 dress. Tax is due on the \$100.00 dress. The \$75.00 credit from the returned item cannot be used to reduce the sales price of the \$100.00 item to \$25.00 for exemption purposes.

2. A customer purchases a \$35.00 shirt during the exemption period. After the exemption period, the customer exchanges the shirt for a \$35.00 jacket. Since the jacket was not purchased during the exemption period, tax is due on the \$35.00 price of the jacket.

3. A customer purchases notebook filler paper for \$3.95 during the exemption period. Later during the exemption period, the customer exchanges the notebook filler paper for note pads costing the same amount. Tax is due on the note pads, because they are not eligible for the exemption.

(12) Refunds.

(a) A customer who pays tax to a dealer on an eligible item when no tax is due must secure a refund of the tax from the dealer and not from the Department of Revenue.

(b) For the period August 12, 2011, through October 31, 2011, when a customer returns an item that would qualify for the exemption, no refund of tax shall be given unless the customer provides a receipt or invoice showing tax was paid, or the retailer has sufficient documentation to show that tax was paid on the specific item.

(13) Coupons, Rebates, and Discounts.

(a)1. Manufacturer's coupons. Manufacturer's coupons do not reduce the sales price of an item. Therefore, a manufacturer's coupon cannot be used to reduce the selling price of an item of clothing to \$75.00 or less, or a school supply item to \$15.00 or less, in order to qualify for the exemption.

2. Example: A jacket sells for \$85.00. The customer has a \$10.00 manufacturer's coupon good for the purchase of the jacket. The manufacturer's coupon does not reduce the sales price of the jacket. Tax is due on \$85.00, even though the customer only pays the retailer \$75.00 for the jacket.

(b)1. Store coupons and discounts. Store coupons and discounts reduce the sales price of an item. Therefore, a store coupon or discount can be used to reduce the sales price of an item to \$75.00 or less, or of a school supply item to \$15.00 or less, in order to qualify for the exemption.

2. Example: A customer buys a \$400.00 suit and a \$80.00 shirt. The retailer is offering a 10 percent discount. After applying the 10 percent discount, the final sales price of the suit is \$360.00, and the sales price of the shirt is \$72.00. The suit is taxable (its price is over \$75.00), and the shirt is exempt (its price is less than \$75.00).

(c)1. Rebates. Rebates occur after the sale and do not affect the sales price of an item purchased.

2. Example: A jacket sells for \$85.00. The customer receives a \$10.00 rebate from the manufacturer. The rebate occurs after the sale, so it does not reduce the sales price of the jacket. Tax is due on \$85.00.

(14) Repairs and Alterations to Eligible Items.

(a) Repairs to eligible items do not qualify for the exemption.

(b)1. Alterations to clothing or footwear do not qualify for the exemption, even though alterations may be sold, invoiced, and paid for at the same time as the item to be altered.

2. Example: A customer purchases a pair of pants for \$75.00 and pays \$5.00 to the retailer to have the pants cuffed. The \$75.00 charge for the pants is exempt; however, tax is due on the \$5.00 alterations charge.

(15) Gift Certificates.

(a) Eligible items purchased during the exemption period using a gift certificate will qualify for the exemption, regardless of when the gift certificate was purchased. Eligible items purchased after the exemption period using a gift certificate are taxable, even if the gift certificate was purchased during the exemption period. A gift certificate cannot be used to reduce the selling price of an item of clothing to \$75.00 or less, or of a school supply item to \$15.00 or less, in order for the item to qualify for the exemption.

(b) Example: A customer purchases a dress priced at \$90.00 and uses a \$50.00 gift certificate. Tax is due on \$90.00. The gift certificate does not reduce the selling price to \$40.00 for purposes of the exemption.

(16) Rentals. Rentals of clothing, or footwear do not qualify for the exemption.

(17) Reporting. No special reporting procedures are necessary to report exempt sales made during the exemption period. Sales should be reported as currently required by law.

(18) Record Retention and Documentation. No special record keeping requirements are necessary. Records should be maintained as currently required by law.

(19) License Fees or Other Fees imposed by Panama City and Panama City Beach.

(a) The cities of Panama City and Panama City Beach impose upon retailers a Merchant's License Tax or similar gross receipts tax or fee, which may be passed on to the customer. The Merchant's License Tax is included in the sales price of each item, whether or not the tax is separately stated on the invoice.

(b) Example: A jacket sells for \$74.95. The separately stated 1% gross receipts fee for this item is \$0.75. Since the gross receipts fee is part of the sales price of the item (\$75.70), the jacket will not qualify for the exemption.

(20) List of Items of Clothing and Their Taxable Status During the Exemption Period. The following is a list of items of clothing and their taxable status during the exemption period, if they are sold for \$75.00 or less. This is not an inclusive list. T = Taxable, E = Exempt.

- A
- T Accessories (generally)
- E Barrettes and bobby pins
- E Belt buckles
- E Bow ties
- E Hair nets, bows, clips, and bands
- E Handbags
- T Handkerchiefs
- T Jewelry
- T Key cases
- E Neckwear
- E Ponytail holders
- E Scarves
- E Ties
- E Wallets
- T Watch bands
- T Watches
- E Aerobic/Fitness clothing
- E Aprons/Clothing shields
- T Athletic gloves
- T Athletic pads
- E Athletic supporters
  
- B
- E Baby clothes
- E Backpacks

- E Bandanas
- E Baseball cleats
- E Bathing suits, caps, and cover-ups
- E Belt buckles
- E Belts
- T Belts for weightlifting
- E Bibs
- E Blouses
- E Book bags
- E Boots (except ski boots)
- E Bowling shoes (purchased)
- T Bowling shoes (rented)
- E Bow ties
- E \*Braces and supports worn to correct or alleviate a physical incapacity or injury
- E Bras
- T Briefcases
  
- C
- E Caps and hats
- T Checkbook covers (separate from wallets)
- T Chest protectors
- E \*Choir and altar clothing
- E Cleated and spiked shoes
- E \*Clerical vestments
- T Cloth and lace, knitting yarns, and other fabrics
- T Clothing repair items, such as thread, buttons, tapes, iron-on patches, zippers
- E Coats and wraps
- E Coin purses
- T Corsages and boutonnières
- T Cosmetic bags
- E Costumes
- E Coveralls
- T Crib blankets
  
- D
- E Diaper bags
- E Diapers, diaper inserts (adult and baby, cloth or disposable)
- T Diving suits (wet and dry)
- E Dresses
- T Duffel bags
  
- E
- T Elbow pads
- E Employee uniforms

F		K	
E	<u>Fanny packs</u>	T	<u>Key chains</u>
T	<u>Fins</u>	T	<u>Knee pads</u>
T	<u>Fishing boots (waders)</u>		
E	<u>Fishing vests (nonflotation)</u>	L	
T	<u>Football pads</u>	E	<u>Lab coats</u>
E	<u>Formal clothing (purchased)</u>	E	<u>Leg warmers</u>
T	<u>Formal clothing (rented)</u>	E	<u>Leotards and tights</u>
		T	<u>Life jackets and vests</u>
G		E	<u>Lingerie</u>
T	<u>Garment bags</u>	T	<u>Luggage</u>
E	<u>Garters and garter belts</u>		
E	<u>Girdles and bras</u>	M-N	
E	<u>Gloves (generally)</u>	T	<u>Make-up bags</u>
T	<u>Baseball</u>	E	<u>Martial arts attire</u>
T	<u>Batting</u>	E	<u>Neckwear and ties</u>
T	<u>Bicycle</u>		
E	<u>Dress (purchased)</u>	O-P	
E	<u>Garden</u>	E	<u>Overshoes and rubber shoes</u>
T	<u>Golf</u>	T	<u>Pads (football, hockey, soccer, elbow, knee,</u>
T	<u>Hockey</u>		<u>shoulder)</u>
E	<u>Leather</u>	T	<u>Paint or dust masks</u>
T	<u>Rubber</u>	E	<u>Pants</u>
T	<u>Surgical</u>	E	<u>Panty hose</u>
T	<u>Tennis</u>	T	<u>Patterns</u>
E	<u>Work</u>	T	<u>Protective masks (athletic)</u>
T	<u>Goggles (except *prescription)</u>	E	<u>Purses</u>
E	<u>Graduation caps and gowns</u>		
E	<u>Gym suits and uniforms</u>	R	
		E	<u>Raincoats, rain hats, and ponchos</u>
H		E	<u>Receiving blankets</u>
E	<u>Hair nets, bows, clips, and bands</u>	E	<u>*Religious clothing</u>
E	<u>Handbags and purses</u>	T	<u>Rented clothing (including uniforms, formal</u>
T	<u>Handkerchiefs</u>		<u>wear, and costumes)</u>
T	<u>Hard hats</u>	T	<u>Repair of wearing apparel</u>
E	<u>Hats</u>	E	<u>Robes</u>
T	<u>Helmets (bike, baseball, football, hockey,</u>	T	<u>Roller blades</u>
	<u>motorcycle, sports)</u>	T	<u>Roller skates</u>
E	<u>Hosiery, including support hosiery</u>		
E	<u>Hunting vests</u>	S	
		E	<u>Safety clothing</u>
I-J		T	<u>Safety glasses (except *prescription)</u>
T	<u>Ice skates</u>	E	<u>Safety shoes</u>
T	<u>In-line skates</u>	E	<u>Scarves</u>
E	<u>Insoles</u>	E	<u>Scout uniforms</u>
E	<u>Jackets</u>	T	<u>Shaving kits/bags</u>
E	<u>Jeans</u>	E	<u>Shawls and wraps</u>
T	<u>Jewelry</u>	T	<u>Shin guards and padding</u>
		E	<u>Shirts</u>
		E	<u>Shoe inserts</u>

- E Shoes (including athletic)
- E Shoulder pads (for dresses, jackets, etc.)
- T Shoulder pads (football, hockey, sports)
- E Shorts
- T Skates (ice, in-line, roller)
- T Ski boots (snow)
- T Ski vests (water)
- E Ski suits (snow)
- T Skin diving suits
- E Skirts
- E Sleepwear, nightgowns, pajamas
- E Slippers
- E Slips
- E Socks
- T Sports helmets
- T Sports pads (football, hockey, soccer, knee, elbow, shoulder)
- E Sports uniforms (except pads, helmets)
- T Suitcases
- E Suits, slacks, and jackets
- T Sunglasses (except \*prescription)
- E Suspenders
- E Sweatbands
- E Sweaters
- T Swimming masks
- E Swim suits and trunks
  
- T Ties (neckties – all)
- E Tights
- E Tuxedos, excluding cufflinks and rentals
  
- U
- T Umbrellas
- E Underclothes
- E Uniforms (work, school, and athletic – excluding pads)
  
- V-W
- E Vests
- E Vintage clothing
- E Wallets
- T Watchbands
- T Water ski vests
- T Weight lifting belts
- T Wet and dry diving suits
- T Wigs, toupees, and chignons
- E Work clothes and uniforms

\* These items are always exempt as religious, prescription, prosthetic, or orthopedic items.

(21) List of School Supplies and Their Taxable Status During the Exemption Period. The following is a list of school supplies and their taxable status during the exemption period if they are sold for \$15.00 or less. This is not an inclusive list. T = Taxable, E = Exempt.

- E Binders
- E Calculators
- E Cellophane (transparent) tape
- E Colored pencils
- E Compasses
- E Composition books
- E Computer disks (floppies and blank CDs)
- T Computer paper
- E Construction paper
- T Correction tape, fluid, or pens
- E Crayons
- E Erasers
- E Folders
- E Glue (stick & liquid)
- E Highlighters
- E Legal pads
- E Lunch boxes
- E Markers
- T Masking tape
- E Notebook filler paper
- E Notebooks
- E Paste
- E Pencils, including mechanical and refills
- E Pens, including felt, ballpoint, fountain, highlighters, and refills
- E Poster board
- E Poster paper
- T Printer paper
- E Protractors
- E Rulers
- E Scissors
- T Staplers
- T Staples

This rule shall take effect on August 3, 2011.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1), (2) FS., Section 36, Chapter 2011-76, L.O.F. Law Implemented 95.091, 212.02(16), 212.05, 212.0596, 212.06, 212.13, 213.35, 215.26(1), 330.27(2), 509.013(4), (9) FS., Chapter 2011-76, L.O.F. History–New

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: August 3, 2011

**DEPARTMENT OF THE LOTTERY**

RULE NO.:                    RULE TITLE:  
53ER11-37                    PLAY 4™

SUMMARY: This emergency rule sets forth the provisions for the conduct of PLAY 4™.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER11-37 PLAY 4™.

(1) How to Play PLAY 4™.

(a) PLAY 4 is a lottery on-line game in which a player must select any two (2)- or four (4)-digit number from 0000 through 9999 inclusive. The digits may be the same or different; for example, 1111, 1212, and 1348 are all valid selections.

(b) Players may choose play amounts of \$.50 or \$1.00 per play, per drawing, for a total of \$.50, \$1.00, \$2.00, \$3.00, \$4.00, \$6.00, \$12.00, or \$24.00, depending upon the play type selected and number of combinations covered.

(c) Players may make their PLAY 4 ticket selections by marking a play slip or by telling the retailer their desired selections.

1. There are five panels on a play slip. Players electing to use a play slip to make their PLAY 4 ticket selections must mark the play type, draw time, play amount, and number selection (or mark the "Quick Pick" box located at the bottom of each panel for the terminal to randomly select one (1) or more of the numbers) for each panel played. If the draw time is not marked, the ticket will automatically be entered into the next available draw. A "Void" box is also located at the bottom of each panel and should be marked by the player if an error was made in his or her selections in a panel.

Players may mark the \$5 "Quick Picks" box to receive five (5) \$1.00 tickets each with one (1) set of four (4) randomly selected numbers (straight play) for the next PLAY 4 drawing, or may mark the \$10 "Quick Picks" box to receive ten (10) \$1.00 tickets, each with one (1) set of four (4) randomly selected numbers (straight play) for the next available PLAY 4 drawing. Players may mark Quick Picks in addition to panel plays.

Players must use only blue or black ink or pencil for making selections. Play slips must be processed by a retailer in order to obtain a ticket.

2. Players electing to make their PLAY 4 ticket selections by telling the retailer may specify the play type, draw time, play amount, and their desired number selections (or tell the retailer they desire to use the quick pick feature for the terminal to randomly select one (1) or more of the numbers). The terminal defaults to a \$1.00 straight play for the next available

draw if the play type, play amount, and draw time are not specified by the player in conjunction with the selection of the quick pick feature.

(d) A player who selects the combo play type and who elects to use the quick pick feature will not be able to select the total cost of the ticket. The total cost will be determined by whether the quick pick numbers selected by the terminal comprise a 4-way combo, 6-way combo, 12-way combo, or 24-way combo play type as described below.

(e) A player who selects the box play type or the straight/box play type and who elects to use the quick pick feature will not be able to select the type of box play. The type of box play will be determined by whether the quick pick numbers selected by the terminal comprise a 4-way box, 6-way box, 12-way box, or 24-way box combination as described in paragraph (1)(g) below.

(f) Players may play future consecutive midday, evening, or both drawings within a fourteen (14)-day period or non-consecutive drawings within a seven (7)-day period by using the "advance play" feature. To use the advance play feature, players may either mark the play slip or tell the retailer the advance play selections and draw times they desire. For purposes of this paragraph (1)(f), both a fourteen (14)-day and a seven (7)-day period begin on the date of the next available PLAY 4 drawing for the draw time selected and continue through the next thirteen (13)/six (6) consecutive days for the draw time selected. The advance play options are described more fully in subparagraphs 1. and 2. below.

1. Advance Play by Play Slip. Advance play selections made on a play slip are for consecutive drawings for the draw time(s) selected only. Players shall mark the number of consecutive drawings in the "Days" section and the desired draw time(s) in the "Draw Time" section of the play slip. The number of consecutive drawings marked will include the next available drawing for the draw time(s) selected and will apply to each panel (A-E) played. Advance play does not apply to Quick Picks.

a. If the midday (MID) box is selected, the ticket will be entered into the next available midday draw and consecutive midday draws through the selected number of days.

b. If the evening (EVE) box is selected, the ticket will be entered into the next available evening draw and consecutive evening draws through the selected number of days.

c. If the both (BOTH) box is selected, the ticket will be entered into the next available draw and consecutive midday and evening draws through the selected number of days.

2. Advance Play by Telling the Retailer. Players shall specify to the retailer their desired selections in one (1) of the following advance play parameters:

a. Any single day for the draw time(s) selected in a seven (7)-day period;

b. Any two (2) non-consecutive days for the draw time(s) selected in a seven (7)-day period;



c. Any two (2) or more consecutive days for the draw time(s) selected in a seven (7)-day period, not including the next available drawing.

d. Up to fourteen (14) consecutive days for the draw times selected, including the next available drawing.

(g) PLAY 4 can be played and won as follows:

1. "Straight" play. In a straight play, if a player's digits are drawn in the exact order as they were chosen by the player, the player wins \$2,500 for a 50-cent play or \$5,000 for a \$1.00 play.

2. "Box" play. A box play allows a player to win if the player's selections are drawn in any order.

a. A "4-way box" is a play in which the player has selected a number with three (3) identical digits. Therefore, the play involves four (4) combinations; for example, a 1112 box covers the combinations 1112, 1121, 1211 and 2111, and pays a winner \$599 for a 50-cent play or \$1,198 for a \$1.00 play.

b. A "6-way box" is a play in which the player has selected a number with pairs of two (2) unique digits. Therefore, the play involves six (6) combinations; for example, a 1122 box covers the combinations 1122, 1212, 1221, 2112, 2121, and 2211, and pays a winner \$400 for a 50-cent play or \$800 for a \$1.00 play.

c. A "12-way box" is a play in which the player has selected a number with two (2) identical digits. Therefore, the play involves twelve (12) combinations; for example, a 1123 box covers the combinations 1123, 1132, 1213, 1231, 1312, 1321, 2113, 2131, 2311, 3112, 3121, and 3211, and pays a winner \$200 for a 50-cent play or \$400 for a \$1.00 play.

d. A "24-way box" is a play in which the player has selected a number with four (4) unique digits. Therefore, the play involves twenty-four (24) combinations; for example, a 1234 box covers the combinations 1234, 1243, 1324, 1342, 1423, 1432, 2134, 2143, 2314, 2341, 2413, 2431, 3124, 3142, 3214, 3241, 3412, 3421, 4123, 4132, 4213, 4231, 4312, and 4321, and pays a winner \$100 for a 50-cent play or \$200 for a \$1.00 play.

3. "Straight and Box" play. A straight and box play combines a 50-cent straight play and a 50-cent box play for a \$1.00 play.

a. A "Straight and 4-way box" play pays a winner \$3,099 if a player's digits are drawn in the exact order as printed on the player's ticket, or \$599 if the player's digits are drawn in any other order.

b. A "Straight and 6-way box" play pays a winner \$2,900 if a player's digits are drawn in the exact order as printed on the player's ticket, or \$400 if the player's digits are drawn in any other order.

c. A "Straight and 12-way box" play pays a winner \$2,700 if a player's digits are drawn in the exact order as printed on the player's ticket, or \$200 if the player's digits are drawn in any other order.

d. A "Straight and 24-way box" play pays a winner \$2,600 if a player's digits are drawn in the exact order as printed on the player's ticket, or \$100 if the player's digits are drawn in any other order.

4. "Combo" play. A combo is a play covering all straight combinations of a four (4)-digit number and will cost \$2.00 to \$24.00 depending upon the amount played (50 cents or \$1.00) and the number of like digits in the four (4)-digit number selected.

a. A "4-way combo" is a play in which the player has selected a number with three (3) identical digits. The 4-way combo is comprised of four (4) straight play combinations; for example, a 1112 4-way combo covers the combinations 1112, 1121, 1211, and 2111 and pays a winner \$2,500 for a \$2.00 play or \$5,000 for a \$4.00 play.

b. A "6-way combo" is a play in which the player has selected a number with two (2) pairs of unique digits. The 6-way combo is comprised of six (6) straight play combinations; for example, a 1122 6-way combo covers the combinations 1122, 1212, 1221, 2112, 2121, and 2211, and pays a winner \$2,500 for a \$3.00 play or \$5,000 for a \$6.00 play.

c. A "12-way combo" is a play in which the player has selected a number with two (2) identical digits. The 12-way combo is comprised of twelve (12) straight play combinations; for example, a 1123 12-way combo covers combinations 1123, 1132, 1213, 1231, 1312, 1321, 2113, 2131, 2311, 3112, 3121, and 3211, and pays a winner \$2,500 for a \$6.00 play or \$5,000 for a \$12.00 play.

d. A "24-way combo" is a play in which the player has selected a number with four (4) unique digits. The 24-way combo is comprised of twenty-four (24) straight play combinations; for example, a 1234 24-way combo covers the combinations 1234, 1243, 1324, 1342, 1423, 1432, 2134, 2143, 2314, 2341, 2413, 2431, 3124, 3142, 3214, 3241, 3412, 3421, 4123, 4132, 4213, 4231, 4312, and 4321, and pays a winner \$2,500 for a \$12.00 play or \$5,000 for a \$24.00 play.

5. "Front Pair" play. A front pair play allows a player to select only two (2) digits and pays \$25.00 for a 50-cent play or \$50.00 for a \$1.00 play if the two (2) digits as printed on the ticket match, in exact order, the first two (2) numbers drawn by the Lottery.

6. "Mid Pair" play. A mid pair play allows a player to select only two (2) digits and pays \$25.00 for a 50-cent play or \$50.00 for a \$1.00 play if the two (2) digits as printed on the ticket match, in exact order, the middle two (2) numbers drawn by the Lottery.

7. "Back Pair" play. A back pair play allows a player to select only two (2) digits and pays \$25.00 for a 50-cent play or \$50.00 for a \$1.00 play if the two (2) digits as printed on the ticket match, in exact order, the last two (2) numbers drawn by the Lottery.

(h) On occasion, increases in the prize amounts set forth in paragraph (1)(g) above will be offered for promotional purposes.

(i) A liability limit of \$5 million is established for PLAY 4. When the play of a particular four digit number for a drawing reaches the Lottery’s PLAY 4 liability limit of \$5 million, no further ticket sales for any type of play that would involve that four digit number will be allowed for that drawing.

(2) PLAY 4 Drawings.

(a) PLAY 4 drawings are conducted twice daily.

(b) PLAY 4 drawings shall be public and witnessed by an accountant employed by an independent certified public accounting firm (“Accountant”) who shall certify to the integrity, security, and fairness of each drawing.

(c) The equipment (ball set(s) and drawing machine(s)) used in a PLAY 4 drawing shall be determined by random selection and shall be inspected by an employee of the Florida Lottery’s Security Division (“Draw Manager”) and the Accountant before and after each drawing.

(d) The equipment shall be configured so that one ball is drawn from each of four units of balls numbered zero through nine.

(e) Once the ball set(s) has been selected and inspected, the selected drawing machine(s) shall be loaded by the Draw Manager, and the ball set(s) mixed by the action of an air blower.

(f) Four balls shall be drawn by vacuum action, one each into four separate display devices. The numbers shown on the four balls, after certification by the Draw Manager and the Accountant, shall be the official winning numbers for the drawing.

(g) In the event a malfunction in the drawing procedures occurs or the drawing equipment malfunctions, the Florida Lottery shall use such substitute procedures as are fair and effective to perform the drawing. Such substitute procedures shall be determined in consultation with the Accountant referred to in paragraph (2)(b). In using such substitute procedures the Florida Lottery shall strive to maintain the highest level of public confidence, security and integrity.

(h) The Florida Lottery shall not be responsible for incorrect circulation, publication or broadcast of official winning numbers.

(3) PLAY 4 Odds of Winning.

The odds of winning in PLAY 4 are as follows:

- (a) Straight 1 in 10,000
- (b) Box 4-Way 1 in 2,500
- (c) Box 6-Way 1 in 1,666.67
- (d) Box 12-Way 1 in 833.33
- (e) Box 24-Way 1 in 416.67
- (f) Straight/ Box 4-Way 1 in 10,000 and 1 in 2,500
- (g) Straight/ Box 6-Way 1 in 10,000 and 1 in 1,666.67
- (h) Straight/ Box 12-Way 1 in 10,000 and 1 in 833.33
- (i) Straight/ Box 24-Way 1 in 10,000 and 1 in 416.67

- (j) Combo 4-Way 1 in 2,500
- (k) Combo 6-Way 1 in 1,666.67
- (l) Combo 12-Way 1 in 833.33
- (m) Combo 24-Way 1 in 416.67
- (n) Front Pair 1 in 100
- (o) Middle Pair 1 in 100
- (p) Back Pair 1 in 100.

(4) PLAY 4 Rules and Prohibitions.

(a) By purchasing a PLAY 4 ticket a player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(b) PLAY 4 prize payments shall be made in accordance with rules of the Florida Lottery governing payment of prizes.

(c) Tickets shall not be purchased by or sold to persons under the age of eighteen (18).

(d) Subject to a retailer’s hours of operation and on-line system availability, PLAY 4 lottery tickets are available for purchase daily between the hours of 6:00 a.m. and midnight, Eastern Time (ET).

(e) The scheduled time for the daily PLAY 4 drawing is approximately 1:30 p.m. (ET) for the midday draw and 7:57 p.m., (ET) for the evening draw. Ticket sales for a specific PLAY 4 drawing will close approximately ten (10) minutes prior to that drawing. Any ticket sold after the close of game will be printed with the next available PLAY 4 draw date and time unless the player specifies another PLAY 4 draw date and time within the selection parameters.

(f) Retailer cancellations of PLAY 4 tickets can only be performed by the retailer who sold the ticket, using the selling terminal’s optical mark reader, and within two (2) hours after printing, except that no PLAY 4 ticket shall be cancelled after close of game for the related drawing. The two (2)-hour ticket cancellation period may be reduced due to the selling retailer’s hours of business operation, the hours of on-line system availability, or the time of the related PLAY 4 close of game.

(g) It is the responsibility of the player to determine the accuracy of the selected panels of numbers, draw date(s), draw time(s) and play types on tickets. In the event that a ticket given to the player by the retailer contains selections that are not consistent with the player’s selections, it shall be the responsibility of the player to immediately advise the retailer of that fact. In such event and upon request of a player, the retailer shall make a good faith effort to cancel the ticket. A retailer is not required to cancel a ticket produced upon request of a player by the “quick pick” method of number selection.

(5) This emergency rule replaces 53ER08-31, F.A.C.

Rulemaking Authority 24.105(2), 24.105(9)(a), (b), (c), (d), (e), (f), (h), 24.109(1), 24.115(1) FS. Law Implemented 24.105(2), 24.105(9)(a), (b), (c), (d), (e), (f), (h), 24.115(1), 24.116(1), 24.117(2), 24.124(1) FS. History—New 7-14-11, Replaces 53ER08-31.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.  
EFFECTIVE DATE: July 14, 2011

**DEPARTMENT OF THE LOTTERY**

RULE NO.: 53ER11-38  
RULE TITLE: POWERBALL® Advance Play

SUMMARY: This emergency rule sets forth the provisions for the reduction in the number of POWERBALL® drawings available for purchase starting July 20, 2011, and continuing through January 14, 2012.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER11-38 POWERBALL® Advance Play.

(1) Commencing after the POWERBALL draw break for the Wednesday, July 20, 2011, drawing and continuing through close of game on January 14, 2012, the number of consecutive POWERBALL drawings available for purchase will be reduced. The number of available drawings will be reduced from fifty two (52) to one (1) in accordance with the table set forth below (“Countdown”). Each advance play reduction will be effective on the Lottery’s gaming system after the game close for each POWERBALL drawing occurring during the Countdown period, except that on January 14, 2012, there will be no POWERBALL drawings available for purchase after close of game through 12:00 midnight. The POWERBALL advance play Countdown is in preparation for the anticipated January 15, 2012, launch of the new POWERBALL On-line lottery game.

**POWERBALL ADVANCE PLAY COUNTDOWN**

POWERBALL Drawing Date	Maximum Number of Drawing Available for Purchase
<u>Wednesday, July 20, 2011</u>	<u>52</u>
<u>Saturday, July 23, 2011</u>	<u>51</u>
<u>Wednesday, July 27, 2011</u>	<u>50</u>
<u>Saturday, July 30, 2011</u>	<u>49</u>
<u>Wednesday, August 3, 2011</u>	<u>48</u>
<u>Saturday, August 6, 2011</u>	<u>47</u>
<u>Wednesday, August 10, 2011</u>	<u>46</u>
<u>Saturday, August 13, 2011</u>	<u>45</u>
<u>Wednesday, August 17, 2011</u>	<u>44</u>
<u>Saturday, August 20, 2011</u>	<u>43</u>
<u>Wednesday, August 24, 2011</u>	<u>42</u>
<u>Saturday, August 27, 2011</u>	<u>41</u>
<u>Wednesday, August 31, 2011</u>	<u>40</u>
<u>Saturday, September 3, 2011</u>	<u>39</u>
<u>Wednesday, September 7, 2011</u>	<u>38</u>
<u>Saturday, September 10, 2011</u>	<u>37</u>
<u>Wednesday, September 14, 2011</u>	<u>36</u>
<u>Saturday, September 17, 2011</u>	<u>35</u>
<u>Wednesday, September 21, 2011</u>	<u>34</u>
<u>Saturday, September 24, 2011</u>	<u>33</u>
<u>Wednesday, September 28, 2011</u>	<u>32</u>

<u>Saturday, October 1, 2011</u>	<u>31</u>
<u>Wednesday, October 5, 2011</u>	<u>30</u>
<u>Saturday, October 8, 2011</u>	<u>29</u>
<u>Wednesday, October 12, 2011</u>	<u>28</u>
<u>Saturday, October 15, 2011</u>	<u>27</u>
<u>Wednesday, October 19, 2011</u>	<u>26</u>
<u>Saturday, October 22, 2011</u>	<u>25</u>
<u>Wednesday, October 26, 2011</u>	<u>24</u>
<u>Saturday, October 29, 2011</u>	<u>23</u>
<u>Wednesday, November 2, 2011</u>	<u>22</u>
<u>Saturday, November 5, 2011</u>	<u>21</u>
<u>Wednesday, November 9, 2011</u>	<u>20</u>
<u>Saturday, November 12, 2011</u>	<u>19</u>
<u>Wednesday, November 16, 2011</u>	<u>18</u>
<u>Saturday, November 19, 2011</u>	<u>17</u>
<u>Wednesday, November 23, 2011</u>	<u>16</u>
<u>Saturday, November 26, 2011</u>	<u>15</u>
<u>Wednesday, November 30, 2011</u>	<u>14</u>
<u>Saturday, December 3, 2011</u>	<u>13</u>
<u>Wednesday, December 7, 2011</u>	<u>12</u>
<u>Saturday, December 10, 2011</u>	<u>11</u>
<u>Wednesday, December 14, 2011</u>	<u>10</u>
<u>Saturday, December 17, 2011</u>	<u>9</u>
<u>Wednesday, December 21, 2011</u>	<u>8</u>
<u>Saturday, December 24, 2011</u>	<u>7</u>
<u>Wednesday, December 28, 2011</u>	<u>6</u>
<u>Saturday, December 31, 2011</u>	<u>5</u>
<u>Wednesday, January 4, 2012</u>	<u>4</u>
<u>Saturday, January 7, 2012</u>	<u>3</u>
<u>Wednesday, January 11, 2012</u>	<u>2</u>
<u>Saturday, January 14, 2012</u>	<u>1 (through close of game)</u>

(2) In the event the new POWERBALL game launches after January 15, 2012, the above advance play Countdown schedule will apply, except that the number of drawings available for purchase for each Wednesday and Saturday POWERBALL drawing occurring after January 15, 2012, will remain at one (1) through close of game on the date of the last POWERBALL drawing prior to the launch of the new POWERBALL game. There will be no POWERBALL drawings available after close of game through 12:00 midnight on the date of the last POWERBALL drawing prior to the launch of the new POWERBALL game.

(3) To use the advance play feature, players may either mark an available number of drawings desired in the Advance Play section of a play slip or tell the retailer their desired number of consecutive advance drawings. The number of consecutive advance drawings selected shall apply to each panel played.

(4) This emergency rule shall supersede paragraph 53ER09-52(2)(e), F.A.C.

Rulemaking Authority 24.105(9)(a), (h), 24.109(1) FS. Law Implemented 24.105(9)(a), (h) FS. History—New 7-19-11.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.  
EFFECTIVE DATE: July 19, 2011