

HB 4115

2012

1 A bill to be entitled
 2 An act relating to cigarette metering and vending
 3 machines; amending ss. 210.01, 210.05, 210.07, 210.11,
 4 210.12, 210.15, and 210.18, F.S.; deleting provisions
 5 authorizing the use of metering machines to affix
 6 cigarette tax stamp insignias and pay cigarette taxes;
 7 conforming provisions that provide for regulation,
 8 enforcement, seizure and forfeiture, rulemaking, and
 9 penalties relating to the use of metering machines;
 10 specifying that retail dealers are solely responsible
 11 for affixing identification stickers to each cigarette
 12 vending machine they own, lease, furnish, or operate;
 13 providing an effective date.

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

16
 17 Section 1. Subsection (9) of section 210.01, Florida
 18 Statutes, is amended to read:

19 210.01 Definitions.—When used in this part the following
 20 words shall have the meaning herein indicated:

21 (9) "Agent" means any person authorized by the Division of
 22 Alcoholic Beverages and Tobacco to purchase and affix adhesive
 23 ~~or meter~~ stamps under this part.

24 Section 2. Subsection (1) of section 210.05, Florida
 25 Statutes, is amended to read:

26 210.05 Preparation and sale of stamps; discount.—

27 (1) The tax imposed by this part shall be paid by affixing
 28 stamps in the manner herein set forth ~~or by affixing stamp~~

HB 4115

2012

29 ~~insignia through the device of metering machines authorized in~~
 30 ~~this part.~~

31 Section 3. Section 210.07, Florida Statutes, is amended to
 32 read:

33 210.07 Vending ~~Metering~~ machines.—

34 ~~(1) (a) The tax may also be paid through the use of~~
 35 ~~cigarette tax stamp insignia to be applied by the use of~~
 36 ~~metering machines. The division shall prescribe and promulgate~~
 37 ~~appropriate rules and regulations governing the use of metering~~
 38 ~~machines, the procedure for the payment of such cigarette taxes~~
 39 ~~through the use thereof, requiring adequate surety bonds of the~~
 40 ~~users thereof to assure the proper use of such machines and~~
 41 ~~payment of all cigarette taxes that might come due by the users~~
 42 ~~thereof, and all other rules and regulations necessary and~~
 43 ~~proper to govern the use of same.~~

44 ~~(b) The provisions of s. 210.05 (3) (a) and (b) shall be~~
 45 ~~applicable to cigarette taxes paid through the use of metering~~
 46 ~~machines.~~

47 ~~(2) All provisions of this part governing the use of~~
 48 ~~cigarette tax stamps, the compiling of records, the making of~~
 49 ~~reports, permits and revocation of permits, seizures and~~
 50 ~~forfeitures, penalties, and all other provisions pertaining to~~
 51 ~~the payment of cigarette taxes through the use of stamps, shall~~
 52 ~~likewise be applicable to the payment of said taxes through the~~
 53 ~~use of metering machines.~~

54 ~~(1) (3)~~ Wholesale or Retail dealers of cigarettes owning,
 55 leasing, furnishing, or operating cigarette vending machines
 56 shall affix to each such machine, in a conspicuous place, an

HB 4115

2012

57 identification sticker furnished by the division. Every sticker
 58 shall show the vending machine serial number and the name and
 59 address of the cigarette ~~wholesale or~~ retail dealer owning,
 60 leasing, furnishing, or operating said vending machine.

61 (2)~~(4)~~ No vending machine shall be allowed to operate in
 62 the state that does not have affixed thereto the identification
 63 sticker required by this section nor shall any vending machine
 64 be allowed to operate in the state that does not display at all
 65 times at least one package of each brand of the packages located
 66 therein so the same are clearly visible and arranged in such a
 67 manner that the cigarette tax stamps ~~or meter impressions of~~
 68 ~~stamps~~ affixed thereto are clearly visible. It shall be the duty
 69 of any person, firm or corporation operating a cigarette vending
 70 machine in this state to furnish the division the location of
 71 the vending machine and to report within 30 days to the division
 72 any change of location of the vending machine.

73 Section 4. Section 210.11, Florida Statutes, is amended to
 74 read:

75 210.11 Refunds; sales of stamps and payment of tax.-
 76 Whenever any cigarettes upon which stamps have been placed, ~~or~~
 77 ~~upon which the tax has been paid by metering machine,~~ have been
 78 sold and shipped into another state for sale or use therein, or
 79 have become unfit for use and consumption or unsalable, or have
 80 been destroyed, the dealer involved shall be entitled to a
 81 refund or credit of the actual amount of the tax paid with
 82 respect to such cigarettes less any discount allowed by the
 83 division in the sale of the stamps ~~or payment of the tax by~~
 84 ~~metering machine,~~ upon receipt of satisfactory evidence of the

HB 4115

2012

85 dealer's right to receive such refund or credit, provided
86 application for refund or credit is made within 9 months of the
87 date the cigarettes were shipped out of the state, became unfit,
88 or were destroyed. Only the division shall sell, or offer for
89 sale, any stamp or stamps issued under this part. The division
90 may redeem unused stamps lawfully in the possession of any
91 person. The division may prescribe necessary rules and
92 regulations concerning refunds, credits, sales of stamps, and
93 redemptions under the provisions of this part. Appropriation is
94 hereby made out of revenues collected under this part for
95 payment of such allowances.

96 Section 5. Subsection (1) of section 210.12, Florida
97 Statutes, is amended to read:

98 210.12 Seizures; forfeiture proceedings.—

99 (1) The state, acting by and through the division, shall
100 be authorized and empowered to seize, confiscate, and forfeit
101 any cigarettes upon which taxes payable hereunder may be unpaid
102 or that are otherwise held in violation of the requirements of
103 this chapter, and also any vending machine or receptacle in
104 which cigarettes upon which taxes have not been paid are held
105 for sale, or any vending machine that does not have affixed
106 thereto the identification sticker required by the provisions of
107 s. 210.07, or which does not display at all times at least one
108 package of each brand of cigarettes located therein so the same
109 is clearly visible and arranged in such a manner that the
110 cigarette tax stamp ~~or meter impression of the stamp~~ affixed
111 thereto is clearly visible. Such seizure may be made by the
112 division, its duly authorized representative, any sheriff or

HB 4115

2012

113 deputy sheriff, or any police officer.

114 Section 6. Subsection (2) of section 210.15, Florida
 115 Statutes, is amended to read:

116 210.15 Permits.—

117 (2) The division may not furnish stamps ~~or approve the use~~
 118 ~~of meter machines~~ to evidence the payment of the taxes on
 119 cigarettes except to qualified wholesale dealers.

120 Section 7. Subsection (3) of section 210.18, Florida
 121 Statutes, is amended to read:

122 210.18 Penalties for tax evasion; reports by sheriffs.—

123 (3) Any person who falsely or fraudulently makes, forges,
 124 alters, or counterfeits any stamp ~~or impression die used in~~
 125 ~~meter machines~~ prescribed by the division under the provisions
 126 of this part; ~~or, with intent to evade taxes, jams, tampers~~
 127 ~~with, or alters such a machine;~~ or causes or procures to be
 128 falsely or fraudulently made, forged, altered, or counterfeited
 129 any such stamp ~~or die;~~ or knowingly and willfully utters,
 130 purchases, passes or tenders as true any such false, altered, or
 131 counterfeited stamp ~~or die impression;~~ or, with the intent to
 132 defraud the state, fails to comply with any other requirement of
 133 this part commits a felony of the third degree, punishable as
 134 provided in s. 775.082, s. 775.083, or s. 775.084.

135 Section 8. This act shall take effect July 1, 2012.