

1                                   A bill to be entitled  
 2           An act relating to cigarette surcharge and tax;  
 3           amending ss. 210.011 and 210.02, F.S.; revising  
 4           provisions relating to the surcharge and tax on the  
 5           sale, receipt, purchase, possession, consumption,  
 6           handling, distribution, and use of cigarettes;  
 7           defining the term "standard package of cigarettes";  
 8           amending s. 210.04, F.S.; deleting a provision  
 9           relating to the authority of the Division of Alcoholic  
 10          Beverages and Tobacco of the Department of Business  
 11          and Professional Regulation to authorize manufacturers  
 12          to distribute free sample packages of cigarettes;  
 13          amending ss. 210.06, 210.085, and 215.5602, F.S.;  
 14          conforming provisions; providing an effective date.

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

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 18           Section 1.   Section 210.011, Florida Statutes, is amended  
 19           to read:

20           210.011   Cigarette surcharge levied; collection.—  
 21           (1)   A surcharge of \$2, in addition to all other taxes of  
 22           every kind levied by law, is levied upon the sale, receipt,  
 23           purchase, possession, consumption, handling, distribution, and  
 24           use of cigarettes in this state, ~~in the following amounts,~~  
 25           ~~except as otherwise provided in subsections (2)-(5), for a~~

26 standard package of cigarettes. For purposes of this section,  
 27 the term "standard package of cigarettes" means a package of 20  
 28 cigarettes, pursuant to 21 C.F.R. s. 1140.16(b) cigarettes of  
 29 standard dimensions:

30 ~~(a) Upon all cigarettes weighing not more than 3 pounds~~  
 31 ~~per thousand, 5 cents on each cigarette.~~

32 ~~(b) Upon all cigarettes weighing more than 3 pounds per~~  
 33 ~~thousand and not more than 6 inches long, 10 cents on each~~  
 34 ~~cigarette.~~

35 ~~(c) Upon all cigarettes weighing more than 3 pounds per~~  
 36 ~~thousand and more than 6 inches long, 20 cents on each~~  
 37 ~~cigarette.~~

38 (2) An additional surcharge of 4.2 cents is levied upon  
 39 each ~~The descriptions of cigarettes contained in subsection (1)~~  
 40 ~~are declared to be standard as to dimensions for the purpose of~~  
 41 ~~levying a surcharge as provided in this section. If any~~  
 42 ~~cigarette that is received, purchased, possessed, sold, offered~~  
 43 ~~for sale, given away, or used in which is of a package size~~  
 44 ~~other than a these standard package of cigarettes dimensions,~~  
 45 ~~the cigarette is subject to a surcharge at the rate of 4.2 cents~~  
 46 ~~on each cigarette.~~

47 ~~(3) When cigarettes as described in paragraph (1) (a) are~~  
 48 ~~packed in varying quantities of 20 cigarettes or fewer, except~~  
 49 ~~the manufacturer's free samples authorized under s. 210.04(9),~~  
 50 ~~the following rates shall govern:~~

51 ~~(a) Packages containing 10 cigarettes or fewer require a~~  
 52 ~~surcharge of 50 cents.~~

53 ~~(b) Packages containing more than 10 but not more than 20~~  
 54 ~~cigarettes require a surcharge of \$1.~~

55 ~~(4) When cigarettes as described in paragraph (1) (b) are~~  
 56 ~~packed in varying quantities of 20 cigarettes or fewer, except~~  
 57 ~~the manufacturer's free samples authorized under s. 210.04(9),~~  
 58 ~~the following rates shall govern:~~

59 ~~(a) Packages containing 10 cigarettes or fewer require a~~  
 60 ~~surcharge of \$1.~~

61 ~~(b) Packages containing more than 10 but not more than 20~~  
 62 ~~cigarettes require a surcharge of \$2.~~

63 ~~(5) When cigarettes as described in paragraph (1) (c) are~~  
 64 ~~packed in varying quantities of 20 cigarettes or fewer, except~~  
 65 ~~the manufacturer's free samples authorized under s. 210.04(9),~~  
 66 ~~the following rates shall govern:~~

67 ~~(a) Packages containing 10 cigarettes or fewer require a~~  
 68 ~~surcharge of \$2.~~

69 ~~(b) Packages containing more than 10 but not more than 20~~  
 70 ~~cigarettes require a surcharge of \$4.~~

71 (3)(6) This surcharge shall be paid by the dealer to the  
 72 division for deposit and distribution as hereinafter provided  
 73 upon the first sale or transaction within the state, whether  
 74 such sale or transfer is to the ultimate purchaser or consumer.  
 75 The seller or dealer shall collect the surcharge from the

76 purchaser or consumer, and the purchaser or consumer shall pay  
77 the surcharge to the seller. The seller or dealer is responsible  
78 for the collection of the surcharge and payment of the surcharge  
79 to the division. All surcharges are due not later than the 10th  
80 day of the month following the calendar month in which they were  
81 incurred, and thereafter shall bear interest at the rate of 1  
82 percent per month. If the amount of surcharge due for a given  
83 period is assessed without allocating it to any particular  
84 month, the interest begins accruing on the date of the  
85 assessment. Whenever cigarettes are shipped from outside the  
86 state to anyone other than a distributing agent or wholesale  
87 dealer, the person receiving the cigarettes is responsible for  
88 the surcharge on the cigarettes and payment of the surcharge to  
89 the division.

90 (4)~~(7)~~ It is the legislative intent that the surcharge on  
91 cigarettes be uniform throughout the state.

92 (5)~~(8)~~ The surcharge levied under this section shall be  
93 administered, collected, and enforced in the same manner as the  
94 tax imposed under s. 210.02.

95 (6)~~(9)~~ Revenue produced from the surcharge levied under  
96 this section shall be deposited into the Health Care Trust Fund  
97 within the Agency for Health Care Administration.

98 Section 2. Section 210.02, Florida Statutes, is amended to  
99 read:

100 210.02 Cigarette tax imposed; collection.-

101 (1) An excise or privilege tax of 33.9 cents, in addition  
 102 to all other taxes of every kind imposed by law, is imposed upon  
 103 the sale, receipt, purchase, possession, consumption, handling,  
 104 distribution, and use of cigarettes in this state, ~~in the~~  
 105 ~~following amounts, except as hereinafter otherwise provided,~~ for  
 106 a standard package of cigarettes. For purposes of this section,  
 107 the term "standard package of cigarettes" means a package of 20  
 108 cigarettes, pursuant to 21 C.F.R. s. 1140.16(b) ~~eigarettes of~~  
 109 ~~standard dimensions:~~

110 ~~(a) Upon all cigarettes weighing not more than 3 pounds~~  
 111 ~~per thousand, 16.95 mills on each cigarette.~~

112 ~~(b) Upon all cigarettes weighing more than 3 pounds per~~  
 113 ~~thousand and not more than 6 inches long, 33.9 mills on each~~  
 114 ~~eigarette.~~

115 ~~(c) Upon all cigarettes weighing more than 3 pounds per~~  
 116 ~~thousand and more than 6 inches long, 67.8 mills on each~~  
 117 ~~eigarette.~~

118 (2) An additional tax of 1.41 cents is imposed upon each  
 119 ~~The description of cigarettes contained in paragraphs (a), (b),~~  
 120 ~~and (c) of subsection (1) are hereby declared to be standard as~~  
 121 ~~to dimensions for taxing purposes as provided in this law and~~  
 122 ~~Should any cigarette that is~~ be received, purchased, possessed,  
 123 sold, offered for sale, given away, or used in ~~of~~ a package size  
 124 other than a ~~of~~ standard package of cigarettes dimensions, the  
 125 ~~same shall be taxed at the rate of 1.41 cents on each such~~

126 cigarette.

127 ~~(3) When cigarettes as described in paragraph (1) (a) are~~  
128 ~~packed in varying quantities of 20 cigarettes or less, except~~  
129 ~~manufacturer's free samples authorized under s. 210.04(9), the~~  
130 ~~following rate shall govern:~~

131 ~~(a) Packages containing 10 cigarettes or less require a~~  
132 ~~16.95-cent tax.~~

133 ~~(b) packages containing more than 10 but not more than 20~~  
134 ~~cigarettes require a 33.9-cent tax.~~

135 ~~(4) When cigarettes as described in paragraph (1) (b) are~~  
136 ~~packed in varying quantities of 20 cigarettes or less, except~~  
137 ~~manufacturer's free samples authorized under s. 210.04(9), the~~  
138 ~~following rates shall govern:~~

139 ~~(a) Packages containing 10 cigarettes or less require a~~  
140 ~~33.9-cent tax.~~

141 ~~(b) Packages containing more than 10 but not more than 20~~  
142 ~~cigarettes require a 67.8-cent tax.~~

143 ~~(5) When cigarettes as described in paragraph (1) (c) are~~  
144 ~~packed in varying quantities of 20 cigarettes or less, except~~  
145 ~~manufacturer's free samples authorized under s. 210.04(9), the~~  
146 ~~following rates shall govern:~~

147 ~~(a) Packages containing 10 cigarettes or less require a~~  
148 ~~67.8-cent tax.~~

149 ~~(b) Packages containing more than 10 but not more than 20~~  
150 ~~cigarettes require a 135.6-cent tax.~~

151        (3)~~(6)~~ This tax shall be paid by the dealer to the  
 152 division for deposit and distribution as hereinafter provided  
 153 upon the first sale or transaction within the state, whether ~~or~~  
 154 ~~not~~ such sale or transfer is ~~be~~ to the ultimate purchaser or  
 155 consumer. The seller or dealer shall collect the tax from the  
 156 purchaser or consumer, and the purchaser or consumer shall pay  
 157 the tax to the seller. The seller or dealer is ~~shall be~~  
 158 responsible for the collection of the tax and ~~the~~ payment of the  
 159 tax same to the division. All taxes are due not later than the  
 160 10th day of the month following the calendar month in which they  
 161 were incurred, and thereafter shall bear interest at the rate of  
 162 1 percent per month. If the amount of tax due for a given period  
 163 is assessed without allocating it to any particular month, the  
 164 interest begins accruing on ~~shall begin with~~ the date of the  
 165 assessment. Whenever cigarettes are shipped from outside the  
 166 state to anyone other than a distributing agent or wholesale  
 167 dealer, the person receiving the cigarettes is ~~shall be~~  
 168 responsible for the tax on the said cigarettes and ~~the~~ payment  
 169 of the tax same to the division.

170        (4)~~(7)~~ It is the legislative intent that the tax on  
 171 cigarettes ~~shall~~ be uniform throughout the state.

172        Section 3. Subsection (9) of section 210.04, Florida  
 173 Statutes, is amended to read:

174        210.04 Construction; exemptions; collection.—

175        (9) Agents~~,~~ located within or without the state~~,~~ shall

176 purchase stamps and affix such stamps in the manner prescribed  
 177 to packages or containers of cigarettes to be sold, distributed,  
 178 or given away within the state, in which case any dealer  
 179 subsequently receiving such stamped packages of cigarettes will  
 180 not be required to purchase and affix stamps on such packages of  
 181 cigarettes. ~~However, the division may, in its discretion,~~  
 182 ~~authorize manufacturers to distribute in the state free sample~~  
 183 ~~packages of cigarettes containing not less than 2 or more than~~  
 184 ~~20 cigarettes without affixing any surcharge and tax stamps~~  
 185 ~~provided copies of shipping invoices on such cigarettes are~~  
 186 ~~furnished, and payment of all surcharges and taxes imposed on~~  
 187 ~~such cigarettes by law is made, directly to the division not~~  
 188 ~~later than the 10th day of each calendar month. The surcharge~~  
 189 ~~and tax on cigarettes in sample packages shall be based on a~~  
 190 ~~unit in accordance with the surcharges levied under s.~~  
 191 ~~210.011(1) and the taxing provisions of s. 210.02(1).~~

192 Section 4. Subsection (5) of section 210.06, Florida  
 193 Statutes, is amended to read:

194 210.06 Affixation of stamps; presumption.—

195 (5) Except as provided in ~~s. 210.04(9) or~~ s. 210.09(1), no  
 196 person, other than a dealer or distributing agent that receives  
 197 unstamped cigarette packages directly from a cigarette  
 198 manufacturer or importer in accordance with this section and s.  
 199 210.085, shall hold or possess an unstamped cigarette package.  
 200 Dealers shall be permitted to set aside, without application of



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201 stamps, only such part of the dealer's stock that is identified  
202 for sale or distribution outside this state. If a dealer  
203 maintains stocks of unstamped cigarette packages, such unstamped  
204 packages shall be stored separately from stamped product  
205 packages. No unstamped cigarette packages shall be transferred  
206 by a dealer to another facility of the dealer within this state  
207 or to another person within this state.

208 Section 5. Section 210.085, Florida Statutes, is amended  
209 to read:

210 210.085 Transactions only with permitted manufacturers,  
211 importers, distributing agents, dealers, and retail dealers.—  
212 ~~Except as otherwise provided in s. 210.04(9),~~ A manufacturer or  
213 importer, or a distributing agent representing a manufacturer or  
214 importer, may sell or distribute cigarettes to a person located  
215 or doing business within this state only if such person is a  
216 dealer or importer with a valid, current permit under s. 210.15.  
217 A distributing agent may accept cigarettes from a manufacturer  
218 or importer with a valid, current permit for transfer to a  
219 dealer with a valid, current permit but may not own or sell  
220 cigarettes. A dealer may sell or distribute cigarettes to a  
221 person located or doing business within this state only if such  
222 person is a dealer or retail dealer with a valid, current permit  
223 under s. 569.003. A dealer may obtain cigarettes only from a  
224 manufacturer or importer or from a distributing agent or dealer  
225 with a valid, current permit under s. 210.15. A retail dealer

226 | may obtain cigarettes only from a dealer with a valid, current  
 227 | permit under s. 210.15.

228 |         Section 6. Paragraph (a) of subsection (12) of section  
 229 | 215.5602, Florida Statutes, is amended to read:

230 |             215.5602 James and Esther King Biomedical Research  
 231 | Program.—

232 |             (12) (a) Each fiscal year, \$25 million from the revenue  
 233 | deposited into the Health Care Trust Fund pursuant to ss.  
 234 | 210.011(6) ~~210.011(9)~~ and 210.276(7) shall be reserved for  
 235 | research of tobacco-related or cancer-related illnesses. Of the  
 236 | revenue deposited in the Health Care Trust Fund pursuant to this  
 237 | section, \$25 million shall be transferred to the Biomedical  
 238 | Research Trust Fund within the Department of Health. Subject to  
 239 | annual appropriations in the General Appropriations Act, \$5  
 240 | million shall be appropriated to the James and Esther King  
 241 | Biomedical Research Program, and \$5 million shall be  
 242 | appropriated to the William G. "Bill" Bankhead, Jr., and David  
 243 | Coley Cancer Research Program created under s. 381.922.

244 |         Section 7. This act shall take effect July 1, 2017.