

By Representative Barreiro

1                                   A bill to be entitled  
2           An act relating to tobacco products; creating  
3           s. 210.155, F.S.; defining the term "primary  
4           source of supply"; requiring registration as a  
5           primary source of supply; prohibiting  
6           distributing agents and wholesale dealers from  
7           delivering, or accepting delivery of,  
8           cigarettes other than directly from a primary  
9           source of supply; providing a penalty; amending  
10          s. 210.15, F.S.; providing an additional  
11          requirement for issuance of a permit for a  
12          distributing agent or wholesale dealer;  
13          amending s. 210.151, F.S., relating to  
14          temporary initial cigarette and other tobacco  
15          products permits, to conform; revising  
16          provisions relating to the period of validity  
17          of such permits; amending s. 210.16, F.S.;  
18          providing for revocation and suspension of  
19          registration of a primary source of supply;  
20          providing for renewal of registration  
21          subsequent to revocation; providing for civil  
22          penalties in lieu of revocation or suspension;  
23          providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. Section 210.155, Florida Statutes, is  
28 created to read:

29           210.155 Registration as primary source of supply.--

30           (1) DEFINITION.--As used in this chapter, the term  
31 "primary source of supply" means the cigarette manufacturer of

1 the brand, except a cigarette manufacturer outside of the  
2 United States for which the primary source of supply may be  
3 the exclusive agent of the manufacturer of the brand, who, if  
4 the brand cannot be secured directly from the manufacturer by  
5 a distributing agent or wholesale dealer, is the source  
6 closest to the manufacturer in the channel of commerce from  
7 whom the brand can be secured by a permitholder.

8 (2) TAX CONTROL REGISTRATION REQUIRED.--For purposes  
9 of tax revenue control, beginning October 1, 1998, no person,  
10 firm, corporation, or other entity that is the primary source  
11 of supply as defined in subsection (1) may sell, offer for  
12 sale, accept orders for sale, ship, or cause to be shipped  
13 into this state any cigarettes to any distributing agent or  
14 wholesale dealer within the state without having first  
15 registered as a primary source of supply on forms provided by,  
16 and in such manner as prescribed by, the division. Such  
17 registration information shall include a listing of the  
18 complete product line of the manufacturer which is offered in  
19 Florida and shall be updated and submitted monthly, together  
20 with a report of all shipments into the state, on forms and in  
21 such manner as prescribed by the division.

22 (3) CERTAIN INTERSTATE AND FOREIGN SHIPMENTS  
23 PROHIBITED.--Beginning October 1, 1998, no holder of a  
24 distributing agent or wholesale dealer permit as classified by  
25 s. 210.15 may ship or cause to be shipped into this state, or  
26 accept delivery of, from another state or a foreign country,  
27 any cigarettes except directly from a primary source of  
28 supply, registered as required in subsection (2), for the  
29 brand of cigarettes being shipped.

30 (4) VIOLATION; SEIZURE; FORFEITURE.--Any cigarettes in  
31 the possession of a distributing agent or wholesale dealer in

1 violation of this section shall be seized by the division and  
2 subject to forfeiture.

3 Section 2. Paragraphs (a), (b), (e), and (f) of  
4 subsection (1) and subsection (3) of section 210.15, Florida  
5 Statutes, are amended to read:

6 210.15 Permits.--

7 (1)(a) Every person, firm, or corporation desiring to  
8 deal in cigarettes as a distributing agent, wholesale dealer,  
9 or exporter within this state shall file an application for a  
10 cigarette permit for each place of business with the Division  
11 of Alcoholic Beverages and Tobacco. Every application for a  
12 cigarette permit shall be made on forms furnished by the  
13 division and shall set forth the name under which the  
14 applicant transacts or intends to transact business, the  
15 location of the applicant's place of business within the  
16 state, and such other information as the division may require.  
17 If the applicant has or intends to have more than one place of  
18 business dealing in cigarettes within this state, the  
19 application shall state the location of each place of  
20 business. If the applicant is an association, the application  
21 shall set forth the names and addresses of the persons  
22 constituting the association, and if a corporation, the names  
23 and addresses of the principal officers thereof and any other  
24 information prescribed by the division for the purpose of  
25 identification. The application shall be signed and verified  
26 by oath or affirmation by the owner, if a natural person, and  
27 in the case of an association or partnership, any partner  
28 ~~members or partners~~ thereof, and in the case of a corporation,  
29 by an executive officer thereof or by any person specifically  
30 authorized by the corporation to sign the application, to  
31 which shall be attached the written evidence of this

1 authority. The cigarette permit for a distributing agent  
2 shall be issued annually for which an annual fee of \$5 shall  
3 be charged. No permit for a distributing agent or wholesale  
4 dealer shall be issued prior to receipt of an affirmation, on  
5 a form approved by the division, from each manufacturer whose  
6 cigarettes the distributing agent or wholesale dealer intends  
7 to stamp or distribute. This affirmation shall evidence the  
8 manufacturer's intent to provide cigarettes to the applicant  
9 and shall be signed and sworn to by an officer of the  
10 corporation or principal of the partnership or sole  
11 proprietorship manufacturing the cigarettes. In the case of  
12 cigarettes manufactured outside of the United States, the  
13 affirmation form may be executed by the primary source of  
14 supply registered with the division pursuant to s. 210.155.

15 (b) The holder of any duly issued, annual permit for a  
16 distributing agent shall be entitled to a renewal of his or  
17 her annual permit from year to year ~~as a matter of course~~, on  
18 or before July 1 unless otherwise established by rule, upon  
19 making application to the division, ~~and upon~~ payment of this  
20 annual permit fee, and receipt of a newly executed  
21 manufacturer's affirmation form as required in paragraph (a).

22 (e) Prior to an application for a distributing agent,  
23 wholesale dealer, or exporter permit being approved, the  
24 applicant shall file a set of fingerprints when required by  
25 the division on forms provided by the division. The applicant  
26 shall also file a set of fingerprints for any person or  
27 persons interested directly or indirectly with the applicant  
28 in the business for which the permit is being sought, when so  
29 required by the division. If the applicant or any person  
30 interested with the applicant, either directly or indirectly,  
31 in the business for which the permit is sought shall be such a

1 person as is within the definition of persons to whom a  
2 distributing agent, wholesale dealer, or exporter permit shall  
3 be denied, then the application may be denied by the division.  
4 If the applicant is a partnership, all members of the  
5 partnership are required to file said fingerprints, or if a  
6 corporation, all principal officers of the corporation are  
7 required to file said fingerprints when required by the  
8 division. The cigarette permit for a wholesale dealer or  
9 exporter shall be originally issued at a fee of \$100, which  
10 sum is to cover the cost of the investigation required before  
11 issuing such permit.

12 (f) The cigarette permit for a wholesale dealer or  
13 exporter shall be renewed from year to year ~~as a matter of~~  
14 ~~course,~~ at an annual cost of \$100, on or before July 1 unless  
15 otherwise established by rule, upon making application to the  
16 division, ~~and upon~~ payment of the annual renewal fee, and  
17 receipt of a newly executed manufacturer's affirmation form  
18 required in paragraph (a).

19 (3) Upon approval of the application, the division  
20 shall ~~grant and~~ issue to each applicant a cigarette permit for  
21 each place of business set forth in the application.  
22 Cigarette permits shall not be assignable and shall be valid  
23 only for the persons in whose names issued and for the  
24 transaction of business at the places designated therein and  
25 shall at all times be conspicuously displayed at the places  
26 for which issued.

27 Section 3. Section 210.151, Florida Statutes, is  
28 amended to read:

29 210.151 Initial temporary cigarette and other tobacco  
30 products permits.--When a person has filed a completed  
31 application which does not on its face disclose any reason for

1 denying a cigarette permit under s. 210.15, or other tobacco  
2 products permit under s. 210.40, the Division of Alcoholic  
3 Beverages and Tobacco of the Department of Business and  
4 Professional Regulation shall issue a temporary initial permit  
5 of the same type and series for which the application has been  
6 submitted, which is valid for all purposes under this chapter.  
7 However, the application for a temporary cigarette permit must  
8 be accompanied by the manufacturer's affirmation required by  
9 s. 210.15(1)(a), prior to issuance of a temporary permit.

10 ~~(1) A temporary initial permit shall be valid for up~~  
11 ~~to 90 days and may be extended by the division for up to an~~  
12 ~~additional 90 days for good cause. The division may at any~~  
13 ~~time during such period grant or deny the permit applied for,~~  
14 ~~notwithstanding s. 120.60.~~

15 (1)(2) A temporary initial permit expires on and ~~may~~  
16 ~~not be continued or extended beyond~~ the date the division  
17 denies the permit applied for; or beyond 14 days after the  
18 date the division approves the permit applied for; or beyond  
19 the date the applicant pays the permit fee and the division  
20 issues the permit applied for; ~~or beyond the date the~~  
21 ~~temporary permit otherwise expires by law, whichever date~~  
22 occurs first.

23 (2)(3) Each applicant seeking a temporary initial  
24 cigarette permit shall pay to the division for such permit a  
25 fee of \$100. Each applicant seeking a temporary initial permit  
26 for other tobacco products shall pay to the division for such  
27 permit a fee of \$25.

28 (3)(4) Any fee or penalty collected under the  
29 provisions of this act shall be deposited into the Alcoholic  
30 Beverage and Tobacco Trust Fund.

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1           Section 4. Section 210.16, Florida Statutes, is  
2 amended to read:

3           210.16 Revocation or suspension of permit.--

4           (1) The Division of Alcoholic Beverages and Tobacco is  
5 given full power and authority to revoke the permit of any  
6 wholesale dealer receiving a permit to engage in business  
7 under this part or the registration of any primary source of  
8 supply for violation of any of the provisions of this part.

9           (2) The division may suspend for a reasonable period  
10 of time, in its discretion, the permits of wholesale dealers  
11 issued under the provisions of this part or the registration  
12 of any primary source of supply for the same causes and under  
13 the same limitations as is authorized hereunder to revoke the  
14 permits of such wholesale dealers or primary source of supply.

15           (3) No wholesale dealer whose permit for any place of  
16 business has been revoked shall engage in business under this  
17 part at such place of business after such revocation until a  
18 new permit is issued. No wholesale dealer whose permit for  
19 any place of business has been revoked shall be permitted to  
20 have said permit renewed, or to obtain an additional cigarette  
21 permit for any other place of business, for a period of 6  
22 months after the date such revocation becomes final. No  
23 primary source of supply whose registration has been revoked  
24 shall be permitted to have said registration renewed for a  
25 period of 6 months after the date such revocation becomes  
26 final.

27           (4) In lieu of the suspension or revocation of permits  
28 or registrations, the division may impose civil penalties  
29 against holders of permits or registrations for violations of  
30 this part or rules and regulations relating thereto. No civil  
31 penalty so imposed shall exceed \$1,000 for each offense, and

1 all amounts collected shall be deposited with the State  
2 Treasurer to the credit of the General Revenue Fund. If the  
3 holder of the permit or registration fails to pay the civil  
4 penalty, his or her permit or registration shall be suspended  
5 for such period of time as the division may specify.

6 Section 5. This act shall take effect upon becoming a  
7 law.

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HOUSE SUMMARY

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12 Defines the term "primary source of supply" for purposes  
13 of ch. 210, F.S., Tax on Tobacco Products. Requires  
14 registration with the Division of Alcoholic Beverages and  
15 Tobacco for tax and regulatory purposes. Revises  
16 permanent and temporary permit requirements for  
17 cigarettes and other tobacco products. Provides for  
18 revocation or suspension of permits and registrations.  
19 See bill for details.

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