

By Representatives Albright, Andrews and Levine

1 A bill to be entitled
2 An act relating to tax on tobacco products;
3 creating s. 210.155, F.S.; defining "primary
4 source of supply"; requiring registration of
5 entities acting as a primary source of supply;
6 prohibiting wholesale dealers from shipping or
7 accepting delivery of cigarettes from outside
8 the state other than directly from a primary
9 source of supply; providing requirements with
10 respect to affixing any stamp or other cover to
11 a cigarette package; providing for seizure and
12 forfeiture of cigarettes in violation, and for
13 revocation of a wholesale dealer's permit;
14 amending s. 210.15, F.S.; revising application
15 requirements for permits for distributing
16 agents, wholesale dealers, and exporters, and
17 provisions relating to renewal thereof;
18 requiring submission of manufacturers'
19 affirmation forms by distributing agents and
20 wholesale dealers; amending ss. 210.151 and
21 210.405, F.S., relating to temporary initial
22 cigarette and other tobacco products permits;
23 conforming language; revising provisions
24 relating to expiration of such permits;
25 specifying that manufacturers' affirmation
26 forms must be submitted prior to issuance of a
27 temporary cigarette permit; amending s. 210.16,
28 F.S.; providing for revocation and suspension
29 of registration of a primary source of supply;
30 providing limitations on renewal of
31 registration subsequent to revocation;

1 providing for civil penalties in lieu of
2 revocation or suspension; increasing the civil
3 penalty that may be imposed on a wholesale
4 dealer in lieu of suspension or revocation of a
5 permit; providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Section 210.155, Florida Statutes, is
10 created to read:

11 210.155 Registration as primary source of supply.--

12 (1) DEFINITION.--As used in this section, "primary
13 source of supply" means the cigarette manufacturer of the
14 brand, except that, for a cigarette manufacturer outside of
15 the United States, the primary source of supply may be the
16 exclusive agent of the manufacturer of the brand, who, if the
17 brand cannot be secured directly from the manufacturer by an
18 American wholesale dealer, is the source closest to the
19 manufacturer in the channel of commerce from whom the brand
20 can be secured by an American permitholder.

21 (2) TAX CONTROL REGISTRATION REQUIRED.--For purposes
22 of tax revenue control, beginning on the effective date of
23 this act, no person, firm, corporation, or other entity that
24 is a primary source of supply may sell, offer for sale, accept
25 orders for sale, ship, or cause to be shipped into this state
26 any cigarettes to any wholesale dealer within the state
27 without having first registered as a primary source of supply
28 on forms provided by, and in such manner as prescribed by, the
29 division. The registration information shall include a listing
30 of the complete product line of the manufacturer which is
31 offered in Florida and the domestic plants from which it is

1 shipped, and shall be updated and submitted monthly, together
2 with a report of all shipments into the state, on forms and in
3 such manner as prescribed by the division.

4 (3) CERTAIN INTERSTATE AND FOREIGN SHIPMENTS

5 PROHIBITED.--Beginning on the effective date of this act, no
6 holder of a wholesale dealer permit may ship or cause to be
7 shipped into this state, or accept delivery of, from another
8 state or a foreign country, any cigarettes, except directly
9 from a primary source of supply, registered as required by
10 subsection (2), for the brand of cigarettes being shipped.

11 (4) AFFIXING STAMPS; LABELING REQUIREMENTS.--No stamp,

12 decal, or other cover, including a tax stamp, may be affixed
13 to or made upon any package of cigarettes that is to be sold
14 within this state unless that package complies with all
15 requirements of the Federal Cigarette Labeling and Advertising
16 Act, 15 U.S.C. ss. 1331-1341, for the placement of labels,
17 warnings, and other information. No tax stamp may be affixed
18 to any cigarette package that bears any notice or label
19 identifying the cigarettes as intended for use outside the
20 United States or exempt from federal taxes.

21 (5) VIOLATION; SEIZURE; FORFEITURE.--Any cigarettes in

22 the possession of a wholesale or retail dealer in violation of
23 this section shall be seized by the division and subject to
24 forfeiture, and the permit of the wholesale dealer shall be
25 subject to revocation.

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

29 210.15 Permits.--

30 (1)(a) Every person, firm, or corporation desiring to
31 deal in cigarettes as a distributing agent, wholesale dealer,

1 or exporter within this state shall file an application for a
2 cigarette permit for each place of business with the Division
3 of Alcoholic Beverages and Tobacco. Every application for a
4 cigarette permit shall be made on forms furnished by the
5 division and shall set forth the name under which the
6 applicant transacts or intends to transact business, the
7 location of the applicant's place of business within the
8 state, and such other information as the division may require.
9 If the applicant has or intends to have more than one place of
10 business dealing in cigarettes within this state, the
11 application shall state the location of each place of
12 business. If the applicant is an association, the application
13 shall set forth the names and addresses of the persons
14 constituting the association, and if a corporation, the names
15 and addresses of the principal officers thereof and any other
16 information prescribed by the division for the purpose of
17 identification. The application shall be signed and verified
18 by oath or affirmation by the owner, if a natural person, and
19 in the case of an association or partnership, any partner
20 ~~members or partners~~ thereof, and in the case of a corporation,
21 by an executive officer thereof or by any person specifically
22 authorized by the corporation to sign the application, to
23 which shall be attached the written evidence of this
24 authority. The cigarette permit for a distributing agent
25 shall be issued annually for which an annual fee of \$5 shall
26 be charged. No permit for a distributing agent or wholesale
27 dealer shall be issued prior to receipt of an affirmation, on
28 a form approved by the division, from each manufacturer whose
29 cigarettes the distributing agent or wholesale dealer intends
30 to stamp or distribute. This affirmation shall evidence the
31 manufacturer's intent to provide cigarettes to the applicant

1 and shall be signed and sworn to by an officer of the
2 corporation or principal of the partnership or sole
3 proprietorship manufacturing the cigarettes. In the case of
4 cigarettes manufactured outside of the United States, the
5 affirmation form may be executed by the primary source of
6 supply registered with the division pursuant to s. 210.155.

7 (b) The holder of any duly issued, annual permit for a
8 distributing agent shall be entitled to a renewal of his or
9 her annual permit from year to year ~~as a matter of course~~, on
10 or before July 1 unless otherwise established by rule, upon
11 making application to the division, ~~and upon~~ payment of this
12 annual permit fee, and receipt by the division of newly
13 executed manufacturer's affirmation forms as required by
14 paragraph (a).

15 (e) Prior to an application for a distributing agent,
16 wholesale dealer, or exporter permit being approved, the
17 applicant shall file a set of fingerprints when required by
18 the division on forms provided by the division. The applicant
19 shall also file a set of fingerprints for any person or
20 persons interested directly or indirectly with the applicant
21 in the business for which the permit is being sought, when so
22 required by the division. If the applicant or any person
23 interested with the applicant, either directly or indirectly,
24 in the business for which the permit is sought shall be such a
25 person as is within the definition of persons to whom a
26 distributing agent, wholesale dealer, or exporter permit shall
27 be denied, then the application may be denied by the division.
28 If the applicant is a partnership, all members of the
29 partnership are required to file said fingerprints, or if a
30 corporation, all principal officers of the corporation are
31 required to file said fingerprints, when required by the

1 division. The cigarette permit for a wholesale dealer or
2 exporter shall be originally issued at a fee of \$100, which
3 sum is to cover the cost of the investigation required before
4 issuing such permit.

5 (f) The cigarette permit for a wholesale dealer or
6 exporter shall be renewed from year to year ~~as a matter of~~
7 ~~course,~~ at an annual cost of \$100, on or before July 1 unless
8 otherwise established by rule, upon making application to the
9 division, ~~and upon~~ payment of the annual renewal fee, and
10 receipt by the division of newly executed manufacturer's
11 affirmation forms as required by paragraph (a).

12 (3) Upon approval of the application, the division
13 shall ~~grant and~~ issue to each applicant a cigarette permit for
14 each place of business set forth in the application.
15 Cigarette permits shall not be assignable and shall be valid
16 only for the persons in whose names issued and for the
17 transaction of business at the places designated therein and
18 shall at all times be conspicuously displayed at the places
19 for which issued.

20 (4) All permits of distributing agents, wholesale
21 dealers, or exporters shall remain in force and effect until
22 July 1 following their issuance unless otherwise established
23 by rule, or until suspended or revoked for cause by the
24 division, or surrendered by the permitholder.

25 Section 3. Section 210.151, Florida Statutes, is
26 amended to read:

27 210.151 Initial temporary cigarette ~~and other tobacco~~
28 ~~products~~ permits.--When a person has filed a completed
29 application which does not on its face disclose any reason for
30 denying a cigarette permit under s. 210.15, ~~or other tobacco~~
31 ~~products permit under s. 210.40,~~ the Division of Alcoholic

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

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

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

22 ~~(2)(3)~~ Each applicant seeking a temporary initial
23 cigarette permit shall pay to the division for such permit a
24 fee of \$100. ~~Each applicant seeking a temporary initial permit~~
25 ~~for other tobacco products shall pay to the division for such~~
26 ~~permit a fee of \$25.~~

27 ~~(3)(4)~~ Any fee or penalty collected under the
28 provisions of this act shall be deposited into the Alcoholic
29 Beverage and Tobacco Trust Fund.

30 Section 4. Section 210.405, Florida Statutes, is
31 amended to read:

1 210.405 Initial temporary ~~cigarette and other~~ tobacco
2 products permits.--When a person has filed a completed
3 application which does not on its face disclose any reason for
4 denying a ~~cigarette permit under s. 210.15, or other~~ tobacco
5 products permit under s. 210.40, the Division of Alcoholic
6 Beverages and Tobacco of the Department of Business and
7 Professional Regulation shall issue a temporary initial permit
8 of the same type and series for which the application has been
9 submitted, which is valid for all purposes under this chapter.

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.

31

1 Section 5. Section 210.16, Florida Statutes, is
2 amended to read:

3 210.16 Revocation or suspension of permit or
4 registration.--

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

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

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

30 (4) In lieu of the suspension or revocation of permits
31 or registrations, the division may impose civil penalties

1 against holders of permits or registrations for violations of
2 this part or rules and regulations relating thereto. No civil
3 penalty so imposed shall exceed \$100,000~~\$1,000~~ for each
4 offense, and all amounts collected shall be deposited with the
5 State Treasurer to the credit of the General Revenue Fund. If
6 the holder of the permit or registration fails to pay the
7 civil penalty, his or her permit or registration shall be
8 suspended for such period of time as the division may specify.

9 Section 6. This act shall take effect upon becoming a
10 law.

11 *****

12 HOUSE SUMMARY

13
14 Requires entities that are the primary source of supply
15 of cigarettes for wholesale dealers to register with the
16 Division of Alcoholic Beverages and Tobacco. Provides
17 that wholesale dealers may not ship or accept delivery of
18 cigarettes from another state or foreign country except
19 directly from a primary source of supply. Prohibits
20 affixing any stamp or other cover to a package of
21 cigarettes that does not comply with federal labeling
22 requirements, or affixing any tax stamp to a package that
23 is identified as intended for use outside the United
24 States or exempt from federal tax. Provides for
25 forfeiture of cigarettes in violation and for revocation
26 of the wholesale dealer's permit. Provides that a primary
27 source of supply's registration may be revoked or
28 suspended in the same manner as a wholesale dealer's
29 permit, and increases the civil penalty that may be
30 imposed on a wholesale dealer in lieu of permit
31 suspension or revocation.

24 Revises application requirements for permits for
25 cigarette distributing agents, wholesale dealers, and
26 exporters and provisions relating to renewal thereof.
27 Requires distributing agents and wholesale dealers to
28 submit manufacturers' affirmation forms prior to
29 receiving a permit. Revises provisions relating to
30 expiration of temporary initial cigarette and other
31 tobacco products permits.