

By the Committee on Judiciary and Senator Burt

308-1814-01

1 A bill to be entitled
2 An act relating to tobacco-settlement
3 agreements; amending s. 215.5601, F.S.;
4 defining the terms "participating
5 manufacturer," "outdoor advertising," and
6 "transit advertisements"; revising legislative
7 intent; specifying procedures by which a
8 tobacco manufacturer may become a participating
9 manufacturer; providing for signatories to a
10 specified settlement agreement to be
11 participating manufacturers; providing for
12 funds received from participating manufacturers
13 to be deposited into the Tobacco Settlement
14 Clearing Trust Fund; providing for a portion of
15 unappropriated funds to be deposited into the
16 Lawton Chiles Endowment Fund; amending s.
17 210.15, F.S.; imposing a supplemental permit
18 fee on wholesale dealers; providing for
19 calculation of fee; amending s. 210.20, F.S.;
20 providing for the deposit of proceeds of the
21 supplemental permit fee; amending ss. 17.41,
22 20.435, 215.5602, F.S., relating to the Tobacco
23 Settlement Clearing Trust Fund, the Biomedical
24 Research Trust Fund, and the Florida Biomedical
25 Research Program; conforming provisions to
26 changes made by the act; providing an effective
27 date.

28
29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 215.5601, Florida Statutes, is
2 amended to read:

3 215.5601 Lawton Chiles Endowment Fund.--

4 (1) SHORT TITLE.--This section may be cited as the
5 "Lawton Chiles Endowment Fund."

6 (2) DEFINITIONS.--As used in this section:

7 (a) "Board" means the State Board of Administration
8 established by s. 16, Art. IX of the State Constitution of
9 1885 and incorporated into s. 9(c), Art. XII of the State
10 Constitution of 1968.

11 (b) "Endowment" means the Lawton Chiles Endowment
12 Fund.

13 (c) "Earnings" means all income generated by
14 investments and the net change in the market value of assets.

15 (d) "Outdoor advertising" means billboards, as well as
16 all signs and placards in arenas and stadia, whether open-air
17 or enclosed. It does not include:

18 1. Any advertisement placed on or outside the premises
19 of retail establishments licensed to sell tobacco products or
20 any retail point-of-sale; or

21 2. Any advertisement or billboard in connection with
22 the sponsorship by a tobacco product manufacturer or importer
23 of any entertainment, sporting, or similar event, such as the
24 National Association for Stock Car Auto Racing (NASCAR) which
25 appears in the State of Florida as part of a national or
26 multi-state tour.

27 (e) "Participating manufacturer" means any
28 manufacturer of tobacco products which meets the requirements
29 of subsection (4).

30 (f)~~(d)~~ "State agency" or "state agencies" means the
31 Department of Health, the Department of Children and Family

1 Services, the Department of Elderly Affairs, or the Agency for
2 Health Care Administration, or any combination thereof, as the
3 context indicates.

4 (g) "Transit advertisements" means advertising on
5 private or public vehicles and all advertisements placed at,
6 on, or within any bus stop, taxi stand, waiting area, train
7 station, airport, or similar location.

8 (3) LEGISLATIVE INTENT.--It is the intent of the
9 Legislature to:

10 (a) Provide a perpetual source of funding for the
11 future of state children's health programs, child welfare
12 programs, children's community-based health and human services
13 initiatives, elder programs, and biomedical research
14 activities.

15 (b) Ensure that enhancement revenues will be available
16 to finance these important programs and initiatives.

17 (c) Use funds received from the Tobacco Settlement
18 Clearing Trust Fund ~~moneys~~ to ensure the financial security of
19 vital health and human services programs for children and
20 elders.

21 (d) Encourage the development of community-based
22 solutions to strengthen and improve the quality of life of
23 Florida's most vulnerable citizens, its children and elders.

24 (e) Provide funds for cancer research and
25 public-health research for diseases linked to tobacco use.

26 (f) Provide tobacco manufacturers the opportunity to
27 voluntarily participate in mitigating the impact of the use of
28 tobacco on the residents of this state.

29 (4) PARTICIPATING MANUFACTURERS; QUALIFICATIONS.--

30 (a) A tobacco product manufacturer that is a signatory
31 or released party to the August 25, 1997, settlement agreement

1 in the State of Florida, et al. v. American Tobacco Company,
2 et al., and the settlement agreement entered on March 15,
3 1996, in the case of State of West Virginia, State of Florida,
4 State of Mississippi, Commonwealth of Massachusetts, and State
5 of Louisiana v. Broke Group Ltd. and Liggett Group, Inc., and
6 that is in compliance with all economic and noneconomic terms
7 and conditions contained in those agreements and all
8 amendments and supplemental agreements in those actions is a
9 "participating manufacturer" within the meaning of this
10 section.

11 (b) A tobacco product manufacturer or importer may
12 become a "participating manufacturer" within the meaning of
13 this section, by entering into an agreement with the State of
14 Florida, through, with, and administered by the Attorney
15 General, which provides for the following:

16 1. Elimination of the outdoor advertising and transit
17 advertisements at the earlier of the expiration of applicable
18 contracts or 4 months after the date the final list of outdoor
19 advertising signs is supplied to the Attorney General. The
20 manufacturer or importer shall provide a final list of the
21 location of all its outdoor advertising signs and transit
22 advertisements to the Attorney General within 45 days after
23 entering the agreement.

24 2. Agreement to support legislative initiatives to
25 enact new laws and administrative initiatives to adopt new
26 rules intended to effectuate the following:

27 a. The prohibition of the sale of cigarettes in
28 vending machines, except in adult-only locations and
29 facilities;

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1 b. The strengthening of civil penalties for sales of
2 tobacco products to children under the age of 18, including
3 the suspension or revocation of retail licenses; and

4 c. The strengthening of civil penalties for possession
5 of tobacco products by children under the age of 18.

6 3. Prohibition on making or causing to be made, in
7 connection with any motion picture made in the United States,
8 any payment, direct or indirect, to any person to use,
9 display, make reference to, or use as a prop any cigarette,
10 cigarette package, advertisement for cigarettes, or any other
11 item bearing the brand name, logo, symbol, motto, selling
12 message, recognizable color or pattern of colors, or any other
13 indicia of product identification identical or similar to, or
14 identifiable with, those used for any brand of tobacco
15 products;

16 4. Prohibition and permanent cessation on marketing,
17 licensing, distributing, selling, or offering, directly or
18 indirectly, including by catalogue or direct mail, in the
19 State of Florida, any item (other than tobacco products or any
20 item of which the sole function is to advertise tobacco
21 products) which bears the brand name (along or in conjunction
22 with any other word), logo, symbol, motto, selling message,
23 recognizable color or pattern of colors, or any other indicia
24 of product identification identical or similar to, or
25 identifiable with, those used for any brand of domestic
26 tobacco products.

27 5. Support of the state's efforts to mitigate the
28 impact of the use of tobacco products through annual payments
29 to the state. On January 1 of each year, the Division of
30 Alcoholic Beverages and Tobacco of the Department of Business
31 and Professional Regulation shall calculate the payment

1 amount, which is due by January 31 of that year. The payment
2 amount shall be based on the number of cigarette packages
3 delivered to wholesale dealers for sale in this state by the
4 manufacturer from January 1 until December 31 of the prior
5 year. The payment amount per package shall be calculated as
6 the total annual payment due to the state pursuant to the
7 settlement agreement in the case of The State of Florida et
8 al. v. American Tobacco Company, et al., divided by the total
9 number of packages delivered to wholesale dealers for sale in
10 this state by the four settling manufacturers during the
11 previous 12 months, rounded to the nearest tenth of a cent.

12 (c) Cigarettes produced by each tobacco product
13 manufacturer or importer that fully complies with the
14 agreement entered into with the Attorney General under
15 paragraph (b) and makes the annual payment by January 31 are
16 exempt from the supplemental permit fee on cigarettes imposed
17 under s. 210.15(1)(g) for the subsequent 12-month period.

18 (d) A tobacco product manufacturer may also become a
19 participating manufacturer by:

20 1. Certifying to the Attorney General that the
21 manufacturer was not manufacturing and selling its cigarette
22 brands in this state before January 1, 1994;

23 2. Certifying to the Attorney General that the
24 manufacturer is not engaging in outdoor or transit advertising
25 of its cigarettes in this state;

26 3. Certifying to the Attorney General that the
27 manufacturer will terminate its cigarette sales in this state
28 on or before January 1, 2008;

29 4. Undertaking to sell cigarettes in this state which
30 are manufactured to deliver less toxins through the use of
31 very-low-TSNA flue-cured tobacco and activated

1 charcoal/acetate filter. To meet the requirements of this
2 subparagraph, the manufacturer shall certify to the Attorney
3 General within 90 days after the effective date of this act
4 that all of its cigarettes sold in this state have at least 20
5 percent very-low-TSNA flue-cured tobacco, as well as activated
6 charcoal/acetate filters with at least 30 milligrams of
7 charcoal, and shall certify to the Attorney General within 2
8 years after the effective date of this act that all of its
9 cigarettes sold in this state have 100 percent very-low-TSNA
10 flue-cured tobacco, as well as activated charcoal/acetate
11 filters with at least 30 milligrams of charcoal. For purposes
12 of this subparagraph, "very-low-TSNA flue-cured tobacco" means
13 tobacco having less than 400 parts per billion of the
14 carcinogenic tobacco specific nitrosamines, NNN and NNK; and

15 5. Filing a copy of its annual SEC Form 10K with the
16 Attorney General.

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18 Cigarettes produced by such manufacturer under this paragraph
19 are exempt from the supplemental permit fee imposed under s.
20 210.15(1)(g). Failure of the tobacco product manufacturer to
21 comply with this paragraph shall result in the manufacturer
22 becoming immediately liable for payment of the supplemental
23 permit fee imposed under s. 210.15(1)(g) for all 12-month
24 periods from inception of the fee plus interest and a penalty
25 equal to the amount of the fee.

26 (e) Any tobacco manufacturer that was a defendant in
27 the case of the State of Florida et al. v. American Tobacco
28 Company et al., but was dismissed from such case and is not a
29 signatory to the settlement agreement entered on August 25,
30 1997, and that certifies to the Attorney General that it will
31 comply with the noneconomic provisions of the settlement

1 agreement is a participating manufacturer. Failure of the
2 tobacco product manufacturer to comply with this paragraph
3 shall result in the manufacturer becoming immediately liable
4 for payment of the supplemental permit fee imposed under s.
5 210.15(1)(g) for all 12-month periods from inception of the
6 fee plus interest and a penalty equal to the amount of the
7 fee.

8 (f) Funds received from participating manufacturers
9 shall be deposited into the Department of Banking and Finance
10 Tobacco Settlement Clearing Trust Fund.

11 (5)~~(4)~~ LAWTON CHILES ENDOWMENT FUND; CREATION;
12 PURPOSES AND USES.--

13 (a) There is created the Lawton Chiles Endowment Fund,
14 to be administered by the State Board of Administration. The
15 endowment shall serve as a clearing trust fund not subject to
16 termination pursuant to s. 19(f), Art. III of the State
17 Constitution and shall be funded by ~~settlement~~ moneys received
18 from the Tobacco Settlement Clearing Trust Fund ~~industry~~ and
19 by moneys received from the sale of the state's right, title,
20 and interest in and to the tobacco settlement agreement,
21 including the right to receive payments under such agreement.
22 The endowment fund shall be exempt from the service charges
23 imposed by s. 215.20.

24 (b) Funds from the endowment that are available for
25 legislative appropriation pursuant to subsection~~(7)~~~~(6)~~ shall
26 be transferred by the board to the Tobacco Settlement Clearing
27 Trust Fund, created in s. 17.41, in the amounts provided for
28 in this paragraph.

29 1. For fiscal year 2000-2001, funds shall be
30 distributed based on legislative appropriations.

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1 2. For fiscal year 2001-2002 and beyond, funds shall
2 be distributed annually as follows:

3 a. Fifty percent shall be deposited into a separate
4 account in the Department of Children and Family Services
5 Tobacco Settlement Trust Fund to be appropriated pursuant to
6 paragraph (9)(a)~~(8)(a)~~;

7 b. Thirty-three and one-half percent shall be
8 deposited into the Biomedical Research Trust Fund in the
9 Department of Health to be appropriated pursuant to paragraph
10 (9)(a)~~(8)(b)~~, if such a trust fund is created by law;
11 otherwise, the funds shall be deposited into the Department of
12 Health Tobacco Settlement Trust Fund; and

13 c. The remaining funds shall be deposited into a
14 separate account in the Department of Elderly Affairs Tobacco
15 Settlement Trust Fund to be appropriated pursuant to paragraph
16 (9)(a)~~(8)(a)~~.

17 (c) Subject to legislative appropriations, state
18 agencies shall use distributions from the endowment fund to
19 enhance services for children and elders or to support
20 biomedical research initiatives pursuant to s. 215.5602.

21 (d) No later than October 1 of each year, the
22 Secretary of Health, the Secretary of Children and Family
23 Services, and the Secretary of Health Care Administration
24 shall develop a list of the top five funding priorities for
25 children's services eligible for funding from the endowment
26 funds, and the Secretary of Health, the Secretary of Elderly
27 Affairs, and the Secretary ~~Director~~ of Health Care
28 Administration shall develop a list of the top five funding
29 priorities for elder services eligible for funding from the
30 endowment funds. No later than November 15 of each year, the
31 list for children's services must be submitted to the advisory

1 council for children's services created in paragraph (10)(a)
2 ~~(9)(a)~~, and the list for elder services must be submitted to
3 the advisory council for elder services created in paragraph
4 (10)(a)~~(9)(b)~~. The purposes of using the advisory councils
5 are to evaluate the funding priorities of the agencies, to
6 evaluate the request against the mission and goals of the
7 agencies, to allow for public input and advocacy, and to gain
8 consensus for priority requests and recommended endowment
9 funding levels for those priority requests.

10 (e) Funds distributed from the endowment fund may not
11 be used to supplant existing revenues.

12 (f) When advised by the Revenue Estimating Conference
13 that a deficit will occur with respect to the appropriations
14 from the tobacco settlement trust funds of the state agencies
15 in any fiscal year, the Governor shall develop a plan of
16 action to eliminate the deficit. Before implementing the plan
17 of action, the Governor must comply with the provisions of s.
18 216.177(2). In developing the plan of action, the Governor
19 shall, to the extent possible, preserve legislative policy and
20 intent, and, absent any specific directions to the contrary in
21 the General Appropriations Act, any reductions in
22 appropriations from the tobacco settlement trust funds of the
23 state agencies for a fiscal year shall be prorated among the
24 purposes for which funds were appropriated from that Tobacco
25 Settlement Clearing Trust Fund for that year.

26 (6)~~(5)~~ ADMINISTRATION OF THE ENDOWMENT.--

27 (a) The board is authorized to invest and reinvest
28 funds of the endowment in those securities listed in s.
29 215.47, in accordance with the fiduciary standards set forth
30 in s. 215.47(9) and consistent with an investment plan
31 developed by the executive director and approved by the board.

1 Costs and fees of the board for investment services shall be
2 deducted from the earnings accruing to the endowment.

3 (b) The endowment shall be managed as an annuity. The
4 investment objective shall be long-term preservation of the
5 real value of the principal and a specified regular annual
6 cash outflow for appropriation, as nonrecurring revenue. The
7 schedule of annual cash outflow shall be included within the
8 investment plan adopted pursuant to paragraph (a).

9 (c) The board shall establish a separate account for
10 the funds of the endowment. The board shall design and operate
11 an investment portfolio that maximizes the financial return to
12 the endowment, consistent with the risks inherent in each
13 investment, and that is designed to preserve an appropriate
14 diversification of the portfolio.

15 (d) No later than August 15 and February 15 of each
16 year, the board shall report on the financial status of the
17 endowment to the Governor, the Speaker of the House of
18 Representatives, the President of the Senate, the chairs of
19 the respective appropriations and appropriate substantive
20 committees of each chamber, and the Revenue Estimating
21 Conference.

22 (e) Accountability for funds from the endowment which
23 have been appropriated to a state agency shall reside with the
24 state agency. The board is not responsible for the proper
25 expenditure or accountability of funds from the endowment
26 after transfer to the Tobacco Settlement Clearing Trust Fund.

27 (f) The board may collect a fee for service from the
28 endowment no greater than that charged to the Florida
29 Retirement System.

30 (7)~~(6)~~ AVAILABILITY OF FUNDS.--

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1 (a) Funds from the endowment shall not be available
2 for appropriation to a state agency until July 1, 2000.
3 Beginning July 1, 2000, the maximum annual amount of endowment
4 funds that may be appropriated shall be in accordance with the
5 following, based on earnings averaged over 3 years:

6 1. Beginning July 1, 2000, no more than a level of
7 spending representing earnings at a rate of 3 percent.

8 2. Beginning July 1, 2001, no more than a level of
9 spending representing earnings at a rate of 4 percent.

10 3. Beginning July 1, 2002, no more than a level of
11 spending representing earnings at a rate of 5 percent.

12 4. Beginning July 1, 2003, and thereafter, no more
13 than a level of spending representing earnings at a rate of 6
14 percent.

15 (b) Notwithstanding the provisions of s. 216.301 and
16 pursuant to s. 216.351, all unencumbered balances of
17 appropriations as of June 30 or undisbursed balances as of
18 December 31 shall revert to the endowment's principal.

19 (8)(7) ENDOWMENT PRINCIPAL.--The endowment shall
20 receive moneys from the sale of the state's right, title, and
21 interest in and to the tobacco settlement agreement and from
22 amounts transferred from the Department of Banking and Finance
23 Tobacco Settlement Clearing Trust Fund. Amounts to be
24 transferred from the clearing trust fund shall be in the
25 following amounts for the following fiscal years:

26 (a) For fiscal year 1999-2000, \$1.1 billion;

27 (b) For fiscal year 2000-2001, \$200 million;

28 (c) For fiscal year 2001-2002, \$200 million; ~~and~~

29 (d) For fiscal year 2002-2003, \$200 million; ~~and~~;

30 (e) For all subsequent fiscal years, an amount equal
31 to the greater of \$40 million or 10 percent of the payments

1 deposited into the Department of Banking and Finance Tobacco
2 Settlement Clearing Trust Fund pursuant to subsection (4) and
3 s. 210.20(4).

4
5 Amounts to be transferred pursuant to paragraphs (b), (c), ~~and~~
6 ~~(d), and (e)~~ shall be reduced by an amount equal to the lesser
7 of the amount scheduled to be transferred in that fiscal year
8 pursuant to such paragraphs. ~~\$200 million or the amount the~~
9 ~~endowment receives in that fiscal year pursuant to the sale of~~
10 ~~the state's right, title, and interest in and to the tobacco~~
11 ~~settlement agreement.~~

12 (9)~~(8)~~ APPROPRIATIONS OF THE ENDOWMENT

13 EARNINGS.--Beginning with fiscal year 2001-2002:

14 (a) Appropriations by the Legislature to the
15 Department of Children and Family Services or the Department
16 of Elderly Affairs from the endowment earnings distributed to
17 those departments shall be from a category called Lawton
18 Chiles Endowment Fund Programs. The departments shall
19 distribute such appropriations pursuant to any directions or
20 limitations provided for in the General Appropriations Act and
21 consistent with this section.

22 (b) Appropriations by the Legislature to the
23 Department of Health from the endowment earnings distributed
24 to the department shall be from a category called Florida
25 Biomedical Research Program. The department shall spend such
26 funds in accordance with s. 215.5602.

27 (10)~~(9)~~ LAWTON CHILES ENDOWMENT FUND ADVISORY

28 COUNCILS.--There are established the Lawton Chiles Endowment
29 Fund Advisory Councils, the purpose of which is to evaluate
30 and rank for legislative consideration recommendations

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1 submitted to the councils by the agencies for evaluation under
2 paragraph(5)(d)~~(4)(d)~~.

3 (a) There is created within the Department of Children
4 and Family Services the Lawton Chiles Endowment Fund Advisory
5 Council for Children.

6 1. The council shall consist of 13 members, including
7 the director of the United Way of Florida, Inc., or a
8 designee, the director of the Florida Federation of Community
9 Foundations or a designee, the director of the Florida Foster
10 Parents Association or a designee, and the director of the
11 Florida Pediatric Association or a designee. The Governor
12 shall appoint the remaining council members, including:

- 13 a. An academic expert in child health policy.
14 b. A representative of a children's services council.
15 c. A representative of the Guardian Ad Litem Program.
16 d. A representative of a child welfare lead agency for
17 community-based care.
18 e. A representative of a statewide child advocacy
19 organization.
20 f. A youth representing a statewide youth
21 organization.
22 g. A professional who has expertise in the area of
23 child development.

24 h. Two consumer caregivers of children.

25 2. The council shall adopt internal organizational
26 procedures, including procedures for the appointment of a
27 chair, as necessary for its efficient organization.

28 3. The department shall provide such staff,
29 information, and other assistance as is reasonably necessary
30 to assist the council in carrying out its responsibilities.

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1 4. Members of the council shall serve without
2 compensation, but may receive reimbursement as provided in s.
3 112.061 for travel and other necessary expenses incurred in
4 the performance of their official duties.

5 5. Before February 1 of each year, the council shall
6 advise the Legislature as to its ranking of the children's
7 programs submitted by the agencies for evaluation under
8 paragraph(5)(d)~~(4)(d)~~. The responsibilities of the council
9 may include, but are not limited to:

10 a. Developing criteria and guiding principles for the
11 ranking of programs to be recommended to the Legislature.

12 b. Evaluating the value of programs or services
13 submitted by the agencies as they relate to overall
14 enhancement for children.

15 c. Providing recommendations on the funding levels to
16 be allocated for the ranked programs.

17 d. Participating in periodic program evaluation to
18 determine the need for continued funding.

19 e. Soliciting appropriate input from children's
20 advocates and community stakeholders, such as voluntary
21 organizations, community-based care lead agencies, health care
22 delivery systems, business and industry, government agencies,
23 and children's service providers.

24 (b) There is created within the Department of Elderly
25 Affairs the Lawton Chiles Endowment Fund Advisory Council for
26 Elders.

27 1. The council shall consist of 13 members, including
28 the director of the United Way of Florida, Inc., or a
29 designee, the director of the Florida Federation of Community
30 Foundations or a designee, the director of the Florida branch
31 of the American Association of Retired Persons or a designee,

1 the director of the Florida Council on Aging or a designee,
2 and the State Long-Term Care Ombudsman or a designee. The
3 Governor shall appoint the remaining council members,
4 including:

- 5 a. An academic expert in elder health policy.
- 6 b. A professional who has experience with the delivery
7 of home care services.
- 8 c. A physician who is certified in geriatric medical
9 care.
- 10 d. A professional who has experience with the delivery
11 of services in adult congregate care facilities.
- 12 e. A professional who has experience with the delivery
13 of services in a nursing home.
- 14 f. Two persons who are over the age of 60 years to
15 represent elders.
- 16 g. One consumer caregiver for an elderly person.

17 2. The council shall adopt internal organizational
18 procedures, including the appointment of a chair, as necessary
19 for its efficient organization.

20 3. The department shall provide such staff,
21 information, and other assistance as is reasonably necessary
22 to assist the council in carrying out its responsibilities.

23 4. Members of the council shall serve without
24 compensation, but may receive reimbursement as provided in s.
25 112.061 for travel and other necessary expenses incurred in
26 the performance of their official duties.

27 5. Before February 1 of each year, the council shall
28 advise the Legislature as to its ranking of the elder programs
29 submitted by the agencies for evaluation under paragraph
30 (5)(d)~~(4)(d)~~. The responsibilities of the council may
31 include, but are not limited to:

1 a. Developing criteria and guiding principles for the
2 ranking of programs to be recommended to the Legislature.

3 b. Evaluating the value of programs or services
4 submitted by the agencies as they relate to overall
5 enhancement for elders.

6 c. Providing recommendations on the funding levels to
7 be allocated for the ranked programs.

8 d. Participating in periodic program evaluation to
9 determine the need for continued funding.

10 e. Soliciting appropriate input from elder advocates
11 and community stakeholders, such as voluntary organizations,
12 community-based care lead agencies, health care delivery
13 systems, business and industry, government agencies, and
14 elder-service providers.

15 Section 2. Subsection (1) of section 210.15, Florida
16 Statutes, is amended to read:

17 210.15 Permits.--

18 (1)(a) Every person, firm, or corporation desiring to
19 deal in cigarettes as a distributing agent, wholesale dealer,
20 or exporter within this state shall file an application for a
21 cigarette permit for each place of business with the Division
22 of Alcoholic Beverages and Tobacco. Every application for a
23 cigarette permit shall be made on forms furnished by the
24 division and shall set forth the name under which the
25 applicant transacts or intends to transact business, the
26 location of the applicant's place of business within the
27 state, and such other information as the division may require.
28 If the applicant has or intends to have more than one place of
29 business dealing in cigarettes within this state, the
30 application shall state the location of each place of
31 business. If the applicant is an association, the application

1 shall set forth the names and addresses of the persons
2 constituting the association, and if a corporation, the names
3 and addresses of the principal officers thereof and any other
4 information prescribed by the division for the purpose of
5 identification. The application shall be signed and verified
6 by oath or affirmation by the owner, if a natural person, and
7 in the case of an association or partnership, members or
8 partners thereof, and in the case of a corporation, by an
9 executive officer thereof or by any person specifically
10 authorized by the corporation to sign the application, to
11 which shall be attached the written evidence of this
12 authority. The cigarette permit for a distributing agent shall
13 be issued annually for which an annual fee of \$5 shall be
14 charged.

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, upon making application to the division and
19 upon payment of this annual permit fee and all applicable
20 supplemental permit fees required by this section.

21 (c) The permit for a distributing agent, wholesale
22 dealer, or exporter shall be issued only to persons of good
23 moral character, who are not less than 18 years of age.
24 Distributing agent, wholesale dealer, or exporter permits to
25 corporations shall be issued only to corporations whose
26 officers are of good moral character and not less than 18
27 years of age. There shall be no exemptions from the permit
28 fees ~~herein~~ provided, except as expressly stated in this
29 subsection, to any persons, association of persons or
30 corporation, any law to the contrary notwithstanding. No
31 distributing agent, wholesale dealer, or exporter permit shall

1 be issued to any person who has been convicted within the past
2 5 years of any offense against the cigarette laws of this
3 state or who has been convicted in this state, any other
4 state, or the United States during the past 5 years of any
5 offense designated as a felony by such state or the United
6 States, or to a corporation, any of whose officers have been
7 so convicted. The term "conviction" shall include an
8 adjudication of guilt on a plea of guilty or a plea of nolo
9 contendere, or the forfeiture of a bond when charged with a
10 crime.

11 (d) The division may refuse to issue a distributing
12 agent, wholesale, or exporter permit to any person, firm, or
13 corporation whose permit under the cigarette law has been
14 revoked or to any corporation, an officer of which has had his
15 or her permit under the cigarette law revoked, or to any
16 person who is or has been an officer of a corporation whose
17 permit has been revoked under the cigarette law. Any permit
18 issued to a firm or corporation prohibited from obtaining such
19 permit under the cigarette law may be revoked by the division.

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

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

9 (f) The cigarette permit for a wholesale dealer or
10 exporter shall be renewed from year to year as a matter of
11 course, at an annual cost of \$100, on or before July 1, upon
12 making application to the division and upon payment of the
13 annual renewal fee and all applicable supplemental fees
14 required in this section.

15 (g) 1. In addition to the permit fee required by
16 paragraph (f), there will be a supplemental permit fee for
17 wholesale dealers, applicable to permits granted for periods
18 beginning July 1, 2002, and thereafter. The division shall
19 calculate the supplemental permit fee on April 15 of each
20 year, and the fee shall apply on the following July 1. The fee
21 shall be on a per-package basis and shall be calculated as the
22 total annual payment due to the state pursuant to the
23 settlement agreement in the case of The State of Florida, et
24 al. v. American Tobacco Company, et al., divided by the total
25 number of packages of cigarettes delivered to wholesale
26 dealers for sale in this state by the four settling
27 manufacturers during the previous 12 months, rounded to the
28 nearest tenth of a cent.

29
30 Cigarettes produced by participating manufacturers, as defined
31 in s. 215.5601(4), shall be exempt from the supplemental

1 permit fee as long as such manufacturers are in compliance
2 with the provisions of that section.

3 2. The supplemental permit fee shall be paid by the
4 seller or wholesale dealer to the division upon the first sale
5 or transaction within the state, whether or not such sale or
6 transfer is to the ultimate purchaser or consumer. The seller
7 or dealer shall collect the fee from the purchaser or
8 consumer, and the purchaser or consumer shall pay the fee to
9 the seller. The seller or dealer shall be responsible for the
10 collection of the fee and the payment of the same to the
11 division. The supplemental permit fee is due not later than
12 the 10th day of the month following the calendar month in
13 which it was incurred, and thereafter shall bear interest at
14 the rate of 1 percent per month. If the amount of fee due for
15 a given period is assessed without allocating it to any
16 particular month, the interest shall begin with the date of
17 the assessment. Whenever cigarettes are shipped from outside
18 the state to anyone other than a wholesale dealer, the person
19 receiving the cigarettes shall be responsible for the
20 supplemental permit fee and the payment of same to the
21 division.

22 (h)(g) Permittees, by acceptance of their permits,
23 agree that their places of business or vehicles transporting
24 cigarettes shall always be subject to be inspected and
25 searched without a search warrant for the purpose of
26 ascertaining that all provisions of this part are complied
27 with by authorized employees of the division and also by
28 sheriffs, deputy sheriffs, and police officers during business
29 hours or during any other time such premises are occupied by
30 the permittee or other persons. Retail cigarette dealers and
31 manufacturers' representatives, by dealing in cigarettes,

1 agree that their places of business or vehicles transporting
2 cigarettes shall always be subject to inspection and search
3 without a search warrant for the purpose of ascertaining that
4 all provisions of this part are complied with by authorized
5 employees of the division and also by sheriffs, deputy
6 sheriffs, and police officers during business hours or other
7 times when the premises are occupied by the retail dealer or
8 manufacturers' representatives or other persons.

9 (i)~~(h)~~ No retail sales of cigarettes may be made at a
10 location for which a wholesale dealer, distributing agent, or
11 exporter permit has been issued. The excise tax on sales made
12 to any traveling location, such as an itinerant store or
13 industrial caterer, shall be paid into the General Revenue
14 Fund unallocated. Cigarettes may be purchased for retail
15 purposes only from a person holding a wholesale dealer permit.
16 The invoice for the purchase of cigarettes must show the place
17 of business for which the purchase is made and the cigarettes
18 cannot be transferred to any other place of business for the
19 purpose of resale.

20 Section 3. Section 210.20, Florida Statutes, is
21 amended to read:

22 210.20 Employees and assistants; distribution of
23 funds.--

24 (1) The division under the applicable rules of the
25 Department of Management Services shall have the power to
26 employ such employees and assistants and incur such other
27 expenses as may be necessary for the administration of this
28 part, within the limits of an appropriation for the operation
29 of the Department of Business and Professional Regulation as
30 may be authorized by the General Appropriations Act.

31

1 (2) As collections are received by the division from
2 such cigarette taxes, it shall pay the same into a trust fund
3 in the State Treasury designated "Cigarette Tax Collection
4 Trust Fund" which shall be paid and distributed as follows:

5 (a) The division shall from month to month certify to
6 the Comptroller the amount derived from the cigarette tax
7 imposed by s. 210.02(1)-(5), ~~less s. 210.02~~ the service
8 charges provided for in s. 215.20 and less 0.9 percent of the
9 amount derived from the cigarette tax imposed by s. 210.02,
10 which shall be deposited into the Alcoholic Beverage and
11 Tobacco Trust Fund, specifying the amounts to be transferred
12 from the Cigarette Tax Collection Trust Fund and credited on
13 the basis of 2.9 percent of the net collections to the Revenue
14 Sharing Trust Fund for Counties and 29.3 percent of the net
15 collections for the funding of indigent health care to the
16 Public Medical Assistance Trust Fund.

17 (b) The division shall from month to month certify to
18 the Comptroller the amount derived from the cigarette tax
19 imposed by s. 210.02 on all cigarettes sold at retail on any
20 property of the Inter-American Center Authority, created by
21 chapter 554, and such amount, less the service charge provided
22 for in s. 215.20, shall be paid to said Inter-American Center
23 Authority by warrant drawn by the Comptroller upon the State
24 Treasury, which amount is hereby appropriated monthly out of
25 such Cigarette Tax Collection Trust Fund.

26 (c) Beginning January 1, 1999, and continuing for 10
27 years thereafter, the division shall from month to month
28 certify to the Comptroller the amount derived from the
29 cigarette tax imposed by s. 210.02, less the service charges
30 provided for in s. 215.20 and less 0.9 percent of the amount
31 derived from the cigarette tax imposed by s. 210.02 which

1 shall be deposited into the Alcoholic Beverage and Tobacco
2 Trust Fund, specifying an amount equal to 2.59 percent of the
3 net collections, and that amount shall be paid to the Board of
4 Directors of the H. Lee Moffitt Cancer Center and Research
5 Institute, established under s. 240.512, by warrant drawn by
6 the Comptroller upon the State Treasury. These funds are
7 hereby appropriated monthly out of the Cigarette Tax
8 Collection Trust Fund, to be used for the purpose of
9 constructing, furnishing, and equipping a cancer research
10 facility at the University of South Florida adjacent to the H.
11 Lee Moffitt Cancer Center and Research Institute. In fiscal
12 years 1999-2000 and thereafter with the exception of fiscal
13 year 2008-2009, the appropriation to the H. Lee ~~Moffitt~~ Moffitt
14 Cancer Center and Research Institute authorized by this
15 paragraph shall not be less than the amount which would have
16 been paid to the H. Lee Moffitt Cancer Center and Research
17 Institute for fiscal year 1998-1999 had payments been made for
18 the entire fiscal year rather than for a 6-month period
19 thereof.

20 (3) After all distributions hereinabove provided for
21 have been made, the balance of the revenue produced from the
22 tax imposed by this part shall be deposited in the General
23 Revenue Fund.

24 (4) The division shall from month to month certify to
25 the Comptroller the amount derived from the supplemental
26 permit fee imposed by s. 210.15(1)(g), and that amount shall
27 be transferred from the Alcoholic Beverage and Tobacco Trust
28 Fund and credited in the Department of Banking and Finance
29 Tobacco Settlement Clearing Trust Fund.

30 Section 4. Subsection (4) of section 17.41, Florida
31 Statutes, is amended to read:

1 17.41 Department of Banking and Finance Tobacco
2 Settlement Clearing Trust Fund.--

3 (4) Net proceeds of the sale of the tobacco settlement
4 agreement received by the state shall be immediately deposited
5 into the Lawton Chiles Endowment Fund, created in s. 215.5601
6 ~~s. 215.5601(4)~~, without deposit to the Tobacco Settlement
7 Clearing Trust Fund.

8 Section 5. Paragraph (h) of subsection (1) of section
9 20.435, Florida Statutes, is amended to read:

10 20.435 Department of Health; trust funds.--

11 (1) The following trust funds are hereby created, to
12 be administered by the Department of Health:

13 (h) Biomedical Research Trust Fund.

14 1. Funds to be credited to the trust fund shall
15 consist of funds deposited pursuant to s. 215.5601(5) ~~s.~~
16 ~~215.5601(4)~~. Funds shall be used for the purposes of the
17 Florida Biomedical Research Program as specified in s.
18 215.5602. The trust fund is exempt from the service charges
19 imposed by s. 215.20.

20 2. Notwithstanding the provisions of s. 216.301 and
21 pursuant to s. 216.351, any balance in the trust fund at the
22 end of any fiscal year shall remain in the trust fund at the
23 end of the year and shall be available for carrying out the
24 purposes of the trust fund.

25 3. The trust fund shall, unless terminated sooner, be
26 terminated on July 1, 2004.

27 Section 6. Subsection (1) of section 215.5602, Florida
28 Statutes, is amended to read:

29 215.5602 Florida Biomedical Research Program.--

30 (1) There is established within the Department of
31 Health the Florida Biomedical Research Program funded by the

1 proceeds of the Lawton Chiles Endowment Fund pursuant to s.
2 215.5601 ~~s. 215.5601(4)~~. The purpose of the Florida Biomedical
3 Research Program is to support research initiatives that
4 address the health care problems of Floridians in the areas of
5 cancer, cardiovascular disease, stroke, and pulmonary disease.

6 The long-term goals of the program are to:

7 (a) Improve the health of Floridians by researching
8 better prevention, diagnoses, and treatments for cancer,
9 cardiovascular disease, stroke, and pulmonary disease.

10 (b) Expand the foundation of biomedical knowledge
11 relating to the prevention, diagnosis, and treatment of
12 diseases related to tobacco use, including cancer,
13 cardiovascular disease, stroke, and pulmonary disease.

14 (c) Improve the quality of the state's academic health
15 centers by bringing the advances of biomedical research into
16 the training of physicians and other health care providers.

17 (d) Increase the state's per capita funding for
18 biomedical research by undertaking new initiatives in
19 biomedical research that will attract additional funding from
20 outside the state.

21 (e) Stimulate economic activity in the state in areas
22 related to biomedical research, such as the research and
23 production of pharmaceuticals, biotechnology, and medical
24 devices.

25 Section 7. This act shall take effect upon becoming a
26 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 2214
4 Defines "outdoor advertising" and "transit advertising" for
5 purposes of setting forth the scope of advertising
6 restrictions for participating tobacco manufacturers who enter
7 into an agreement with the state.
8 Replaces provisions imposing a cigarette tax equalization
9 assessment with provisions imposing a supplemental cigarette
10 permit fees on cigarettes produced by tobacco manufacturers
11 who do not qualify or otherwise opt to be a participating
12 manufacturer.
13 Clarifies which manufacturers may be exempted from the
14 supplemental permit fee to be assessed on cigarettes and adds
15 two more categories of exempted participating manufacturers.
16 Increases the minimum annual appropriation to the Lawton
17 Chiles Endowment Fund from \$25 million to the greater of \$40
18 million or 10% of the payments that are made to the Tobacco
19 Settlement Clearing Trust Fund for all years subsequent to the
20 year 2003.
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