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1 A bill to be entitled

2 An act relating to transportation and sale of cigarettes;
3 amending s. 210.01, F.S.; revising and providing
4 definitions; amending s. 210.05, F.S.; providing stamp
5 requirements for cigarettes in transport; providing stamp
6 exceptions for certain cigarettes; requiring transporters
7 of certain cigarettes to submit certain reports; amending
8 s. 210.06, F.S.; revising requirements for and limitations
9 on the affixation of stamps; providing requirements with
10 respect to receipt, possession, storage, and transport of
11 unstamped cigarette packages; creating s. 210.085, F.S.;
12 requiring manufacturers, importers, distributing agents,
13 dealers, and retail dealers to hold a current, valid
14 permit to sell, distribute, or receive cigarettes;
15 amending s. 210.09, F.S.; providing notice and filing
16 guidelines for certain person shipping unstamped cigarette
17 packages; authorizing certain law enforcement officials to
18 inspect certain shipping vehicles; requiring wholesale
19 dealers to submit certain reports; providing criteria for
20 reports; authorizing the Division of Alcoholic Beverages
21 and Tobacco to adopt rules; providing for access to
22 certain records; amending s. 210.12, F.S.; authorizing the
23 state to claim certain property and materials from certain
24 dealers and retailers who attempt to defraud the state;
25 authorizing the destruction of certain cigarettes;
26 amending s. 210.15, F.S.; providing criteria for permit
27 application; prohibiting issuance, maintenance, or renewal
28 of certain permits for certain applicants; providing
29 guidelines for permit application denial; amending s.

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30 210.18, F.S.; expanding the group of violators subject to
 31 criminal liability; prohibiting the sale or possession for
 32 sale of counterfeit cigarettes; providing penalties;
 33 creating s. 210.181, F.S.; providing civil penalties for
 34 failure to comply with certain duties or pay certain
 35 taxes; providing an effective date.

36
 37 Be It Enacted by the Legislature of the State of Florida:
 38

39 Section 1. Subsections (6) and (7) of section 210.01,
 40 Florida Statutes, are amended, and subsections (19) through (23)
 41 are added to said section, to read:

42 210.01 Definitions.--When used in this part the following
 43 words shall have the meaning herein indicated:

44 (6) "Wholesale dealer" means any person located inside or
 45 outside this state who sells cigarettes to retail dealers or
 46 other persons for purposes of resale only, or any person who
 47 operates more than one cigarette vending machine located in more
 48 than one place of business. Such term shall not include any
 49 cigarette manufacturer, export warehouse proprietor, or importer
 50 with a valid permit under 26 U.S.C. s. 5712 if such person sells
 51 or distributes cigarettes in this state only to dealers who are
 52 agents and who hold valid and current permits under s. 210.15 or
 53 to an export warehouse proprietor or another manufacturer.

54 (7) "Retail dealer" means any person located inside or
 55 outside this state other than a wholesale dealer engaged in the
 56 business of selling cigarettes, including persons licensed
 57 pursuant to s. 569.003.

58 (19) "Stamp" or "stamps" means the indicia required to be

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59 placed on cigarette packages that evidences payment of the tax
 60 on cigarettes under s. 210.02.

61 (20) "Importer" means any person with a valid permit under
 62 26 U.S.C. s. 5712 who imports into the United States, directly
 63 or indirectly, a finished cigarette for sale or distribution.

64 (21) "Manufacturer" means any person with a valid permit
 65 under 26 U.S.C. s. 5712 who manufactures, fabricates, assembles,
 66 processes, or labels a finished cigarette.

67 (22) "Counterfeit cigarettes" means cigarettes that have
 68 false manufacturing labels, tobacco product packs without tax
 69 stamps or with counterfeit tax stamps, or any combination
 70 thereof.

71 (23) "Brand family" means all styles of cigarettes sold
 72 under the same trademark and differentiated from one another by
 73 means of additional modifiers or descriptors, including, but not
 74 limited to, "menthol," "lights," "kings," and "100s," and
 75 includes any brand name used alone or in conjunction with any
 76 other word, trademark, logo, symbol, motto, selling message,
 77 recognizable pattern of colors, or any other indicia of product
 78 identification identical or similar to, or identifiable with, a
 79 previously known brand of cigarettes.

80 Section 2. Subsection (6) is added to section 210.05,
 81 Florida Statutes, to read:

82 210.05 Preparation and sale of stamps; discount.--

83 (6)(a) A person may not transport or cause to be
 84 transported from this state cigarettes for sale in another state
 85 without first affixing to the cigarettes the stamp required by
 86 the state in which the cigarettes are to be sold or paying any

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87 other excise tax on the cigarettes imposed by the state in which
 88 the cigarettes are to be sold.

89 (b) A person may not affix to cigarettes the stamp
 90 required by another state or pay any other excise tax on the
 91 cigarettes imposed by another state if the other state prohibits
 92 stamps from being affixed to the cigarettes, prohibits the
 93 payment of any other excise tax on the cigarettes, or prohibits
 94 the sale of the cigarettes.

95 (c) On or before the 10th day of each month, a person who
 96 transports or causes to be transported from this state
 97 cigarettes for sale in another state shall submit to the
 98 division a report identifying the quantity and brand family of
 99 each brand of the cigarettes transported or caused to be
 100 transported in the preceding calendar quarter and the name and
 101 address of each recipient of the cigarettes.

102 (d) For purposes of this section, the term "person" means
 103 an individual, partnership, committee, association, corporation,
 104 or any other organization or group of persons. Person does not
 105 include any common or contract carrier, or public warehouse that
 106 is not owned, in whole or in part, directly or indirectly, by
 107 such person.

108 Section 3. Subsection (1) of section 210.06, Florida
 109 Statutes, is amended, and subsection (5) is added to said
 110 section, to read:

111 210.06 Affixation of stamps; presumption.--

112 (1) Every dealer within ~~or without~~ the state shall affix
 113 or cause to be affixed to such package or container of such
 114 cigarettes such, stamps as are required under this section
 115 within 10 days after receipt of such products. Dealers outside

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116 this state shall affix such stamps before the shipment of
 117 cigarettes into this state, ~~evidencing the payment of the tax~~
 118 ~~imposed by virtue of this part before such cigarettes are~~
 119 ~~offered for sale or use or consumed or before they are otherwise~~
 120 ~~disposed of in the state.~~

121 (a) A tax stamp shall be applied to all cigarette packages
 122 intended for sale or distribution to consumers subject to the
 123 tax imposed under s. 210.02, including cigarettes subject to
 124 reduced state tax under s. 210.04(4)(b).

125 (b) No stamp shall be applied to any cigarette package
 126 exempt from tax under 26 U.S.C. s. 5704 that is distributed by a
 127 manufacturer pursuant to federal regulations.

128 (c) Dealers may apply stamps only to cigarette packages
 129 received directly from a manufacturer or importer of cigarettes
 130 who possesses a valid and current permit under 26 U.S.C. s.
 131 5712.

132 (5) Except as provided in s. 210.09(1), no person, other
 133 than a dealer that receives unstamped cigarette packages
 134 directly from a cigarette manufacturer or importer in accordance
 135 with this section and s. 210.085, shall hold or possess an
 136 unstamped cigarette package. Dealers shall be permitted to set
 137 aside, without application of stamps, only such part of the
 138 dealer's stock that is identified for sale or distribution
 139 outside this state. If a dealer maintains stocks of unstamped
 140 cigarette packages, such unstamped packages shall be stored
 141 separately from stamped product packages. No unstamped cigarette
 142 packages shall be transferred by a dealer to another facility of
 143 the dealer within this state or to another person within this
 144 state.

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145 Section 4. Section 210.085, Florida Statutes, is created
 146 to read:

147 210.085 Transactions only with permitted manufacturers,
 148 importers, distributing agents, dealers, and retail dealers.--A
 149 manufacturer, importer, or distributing agent may sell or
 150 distribute cigarettes to a person located or doing business
 151 within this state, including on any tribal lands located within
 152 the borders of this state, only if such person is a dealer with
 153 a valid, current permit under s. 210.15. A dealer may sell or
 154 distribute cigarettes to a person located or doing business
 155 within this state, including on any tribal lands located within
 156 the borders of this state, only if such person is a dealer or
 157 retail dealer with a valid, current permit under s. 569.003. A
 158 dealer may obtain cigarettes only from a manufacturer or
 159 importer who possesses a valid, current permit under 26 U.S.C.
 160 s. 5712 or from a distributing agent or dealer with a valid,
 161 current permit under s. 210.15. A retail dealer may obtain
 162 cigarettes only from a manufacturer or dealer with a valid,
 163 current permit under s. 210.15.

164 Section 5. Subsections (1) and (2) of section 210.09,
 165 Florida Statutes, are amended, and subsection (6) is added to
 166 said section, to read:

167 210.09 Records to be kept; reports to be made;
 168 examination.--

169 (1)(a) Every person who shall possess or transport any
 170 unstamped cigarettes upon the public highways, roads, or streets
 171 of the state, shall be required to have in his or her actual
 172 possession invoices or delivery tickets for such cigarettes. The
 173 absence of such invoices or delivery tickets shall be prima

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174 facie evidence that such person is a dealer in cigarettes in
 175 this state and subject to the provisions of this part.

176 (b) Any person who ships unstamped cigarette packages into
 177 this state other than to a dealer holding a valid, current
 178 permit pursuant to s. 210.15 shall first file with the division
 179 a notice of such shipment. This paragraph shall not apply to any
 180 common or contract carrier that is transporting cigarettes
 181 through this state to another location outside this state under
 182 a proper bill of lading or freight bill that states the
 183 quantity, source, and destination of such cigarettes.

184 (c) In any case in which the division or its duly
 185 authorized agent, or any law enforcement officer of this state,
 186 has knowledge or reasonable grounds to believe that any vehicle
 187 is transporting cigarettes in violation of this part, the
 188 division, such agent, or such law enforcement officer is
 189 authorized to stop such vehicle and inspect the vehicle for
 190 contraband cigarettes.

191 (2)(a) Except as otherwise provided in this subsection,
 192 the division is authorized to prescribe and promulgate by rules
 193 and regulations, which shall have the force and effect of the
 194 law, such records to be kept and reports to be made to the
 195 division by any distributing agent, wholesale dealer, retail
 196 dealer, common carrier, or any other person handling,
 197 transporting or possessing cigarettes for sale or distribution
 198 within the state as may be necessary to collect and properly
 199 distribute the taxes imposed by s. 210.02. All reports shall be
 200 made on or before the 10th day of the month following the month
 201 for which the report is made, unless the division by rule or
 202 regulation shall prescribe that reports be made more often.

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203 (b) Each wholesale dealer shall submit to the division
 204 monthly reports setting forth the following information,
 205 itemized or submitted separately for each place of business of
 206 such dealer:

207 1. The quantities of cigarettes, by brand family, on hand
 208 both at the beginning and end of the reporting period.

209 2. The quantities of cigarettes, by brand family and
 210 transaction, that were received during the reporting period and
 211 the name and address of each person from whom those products
 212 were received.

213 3. The quantities of cigarettes, by brand family and
 214 transaction, distributed or shipped during the reporting period,
 215 other than sales directly to consumers, and the name and address
 216 of each person to whom those products were distributed or
 217 shipped.

218 (c) Manufacturers and importers shipping cigarettes into
 219 or within this state shall file a monthly report with the
 220 division containing the information regarding such cigarettes
 221 set forth in paragraph (b).

222 (d) The reports submitted pursuant to paragraphs (a), (b),
 223 and (c) shall be further itemized to disclose the quantity of
 224 reported cigarettes bearing tax stamps of this state, stamps of
 225 another state, and unstamped cigarettes, itemized to show, if
 226 known, the portion of the unstamped cigarettes that are intended
 227 for sale or distribution in this state. Dealer reports shall
 228 include, if applicable, the quantity of tax stamps of this state
 229 that were not affixed to cigarettes and that were on hand at the
 230 beginning and end of the reporting period, the quantity of each
 231 type of stamp of this state received during the reporting

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232 period, and the quantity of each type of stamp of this state
 233 applied during the reporting period.

234 (e) The division may adopt rules requiring such additional
 235 information in the monthly reports as is necessary or
 236 appropriate for purposes of enforcing the provisions of this
 237 part.

238 (6) The United States Secretary of the Treasury or his or
 239 her designee shall have access to records and reports required
 240 by this section. The division may share such records and reports
 241 with law enforcement officials of this state, the Federal
 242 Government, or other states.

243 Section 6. Subsection (1) of section 210.12, Florida
 244 Statutes, is amended, subsections (2) through (6) of said
 245 section are renumbered as subsections (4) through (8),
 246 respectively, and new subsections (2) and (3) are added to said
 247 section, to read:

248 210.12 Seizures; forfeiture proceedings.--

249 (1) The state, acting by and through the division, shall
 250 be authorized and empowered to seize, confiscate, and forfeit
 251 ~~for the use and benefit of the state,~~ any cigarettes upon which
 252 taxes payable hereunder may be unpaid or that are otherwise held
 253 in violation of the requirements of this chapter, and also any
 254 vending machine or receptacle in which ~~such~~ cigarettes upon
 255 which taxes have not been paid are held for sale, or any vending
 256 machine that does not have affixed thereto the identification
 257 sticker required by the provisions of s. 210.07, or which does
 258 not display at all times at least one package of each brand of
 259 cigarettes located therein so the same is clearly visible and
 260 arranged in such a manner that the cigarette tax stamp or meter

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261 impression of the stamp affixed thereto is clearly visible. Such
 262 seizure may be made by the division, its duly authorized
 263 representative, any sheriff or deputy sheriff, or any police
 264 officer.

265 (2) All fixtures, equipment, and other materials and
 266 personal property on the premises of any dealer or retail dealer
 267 who, with intent to defraud the state, fails to keep or make any
 268 record, return, report, or inventory required by this part;
 269 keeps or makes any false or fraudulent record, return, report,
 270 or inventory required by this part; refuses to pay any tax
 271 imposed by this part; or attempts in any manner to evade or
 272 defeat the requirements of this part shall be forfeited to the
 273 state.

274 (3) All cigarettes seized, confiscated, and forfeited to
 275 the state under this part shall be destroyed.

276 Section 7. Subsection (1) of section 210.15, Florida
 277 Statutes, is amended to read:

278 210.15 Permits.--

279 (1)(a) Every person, firm, or corporation desiring to
 280 engage in business as a manufacturer, importer, exporter,
 281 distributing agent, or wholesale dealer of cigarettes deal in
 282 eigarettes as a distributing agent, wholesale dealer, or
 283 exporter within this state shall file with the division an
 284 application for a cigarette permit for each place of business
 285 located within this state or, in the absence of such place of
 286 business in this state, for wherever its principal place of
 287 business is located ~~with the Division of Alcoholic Beverages and~~
 288 ~~Tobacco~~. Every application for a cigarette permit shall be made
 289 on forms furnished by the division and shall set forth the name

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290 under which the applicant transacts or intends to transact
 291 business, the location of the applicant's place of business
 292 within the state, if any, and such other information as the
 293 division may require. If the applicant has or intends to have
 294 more than one place of business dealing in cigarettes within
 295 this state, the application shall state the location of each
 296 place of business. If the applicant is an association, the
 297 application shall set forth the names and addresses of the
 298 persons constituting the association, and if a corporation, the
 299 names and addresses of the principal officers thereof and any
 300 other information prescribed by the division for the purpose of
 301 identification. The application shall be signed and verified by
 302 oath or affirmation by the owner, if a natural person, and in
 303 the case of an association or partnership, members or partners
 304 thereof, and in the case of a corporation, by an executive
 305 officer thereof or by any person specifically authorized by the
 306 corporation to sign the application, to which shall be attached
 307 the written evidence of this authority. The cigarette permit for
 308 a distributing agent shall be issued annually for which an
 309 annual fee of \$5 shall be charged.

310 (b) The holder of any duly issued, annual permit for a
 311 distributing agent shall be entitled to a renewal of his or her
 312 annual permit from year to year as a matter of course, on or
 313 before July 1, upon making application to the division and upon
 314 payment of this annual permit fee.

315 (c) Permits ~~The permit for a distributing agent, wholesale~~
 316 ~~dealer, or exporter~~ shall be issued only to persons of good
 317 moral character, who are not less than 18 years of age.
 318 ~~Distributing agent, wholesale dealer, or exporter~~ Permits to

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319 corporations shall be issued only to corporations whose officers
 320 are of good moral character and not less than 18 years of age.
 321 There shall be no exemptions from the permit fees herein
 322 provided to any persons, association of persons, or corporation,
 323 any law to the contrary notwithstanding.

324 (d) No distributing agent, wholesale dealer, or exporter
 325 permit shall be issued, maintained, or renewed if the applicant,
 326 its officers, or any person or persons owning directly or
 327 indirectly, in the aggregate, more than 10 percent of the
 328 ownership interests in the applicant:

- 329 1. Owes \$500 or more in delinquent cigarette taxes;
- 330 2. Had a cigarette importer, retail dealer, or dealer
 331 permit revoked by the division within the previous 2 years;
- 332 3. Has been convicted of selling stolen or counterfeit
 333 cigarettes, receiving stolen cigarettes, or being involved in
 334 the counterfeiting of cigarettes; or
- 335 4. Has been convicted in this state, any other state, or
 336 the United States of any offense designated as a felony by such
 337 state or the United States within 15 years prior to applying for
 338 a permit to any person who has been convicted within the past 5
 339 years of any offense against the cigarette laws of this state or
 340 who has been convicted in this state, any other state, or the
 341 United States during the past 5 years of any offense designated
 342 as a felony by such state or the United States, or to a
 343 corporation, any of whose officers have been so convicted. The
 344 term "convicted" "conviction" shall include an adjudication of
 345 guilt on a plea of guilty or a plea of nolo contendere, or the
 346 forfeiture of a bond when charged with a crime.

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347 (e)~~(d)~~ The division shall ~~may~~ refuse to issue a
 348 ~~distributing agent, wholesale, or exporter~~ permit to any person,
 349 firm, or corporation whose permit under the cigarette law has
 350 been revoked or to any corporation, an officer of which has had
 351 his or her permit under the cigarette law revoked, or to any
 352 person who is or has been an officer of a corporation whose
 353 permit has been revoked under the cigarette law. Any permit
 354 issued to a firm or corporation prohibited from obtaining such
 355 permit under the cigarette law shall ~~may~~ be revoked by the
 356 division.

357 (f)~~(e)~~ Prior to an application for a distributing agent,
 358 wholesale dealer, or exporter permit being approved, the
 359 applicant shall file a set of fingerprints on forms provided by
 360 the division. The applicant shall also file a set of
 361 fingerprints for any person or persons interested directly or
 362 indirectly with the applicant in the business for which the
 363 permit is being sought, when so required by the division. If the
 364 applicant or any person interested with the applicant, either
 365 directly or indirectly, in the business for which the permit is
 366 sought shall be such a person as is within the definition of
 367 persons to whom a ~~distributing agent, wholesale dealer, or~~
 368 ~~exporter~~ permit shall be denied, then the application may be
 369 denied by the division. If the applicant is a partnership, all
 370 members of the partnership are required to file said
 371 fingerprints, or if a corporation, all principal officers of the
 372 corporation are required to file said fingerprints. The
 373 cigarette permit for a wholesale dealer or exporter shall be
 374 originally issued at a fee of \$100, which sum is to cover the
 375 cost of the investigation required before issuing such permit.

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376 (g)~~(f)~~ The cigarette permits issued under this section
 377 ~~permit for a wholesale dealer or exporter~~ shall be renewed from
 378 year to year ~~as a matter of course~~, at an annual cost of \$100,
 379 on or before July 1, upon making application to the division and
 380 upon payment of the annual renewal fee.

381 (h)~~(g)~~ Permittees, by acceptance of their permits, agree
 382 that their places of business or vehicles transporting
 383 cigarettes shall always be subject to be inspected and searched
 384 without a search warrant for the purpose of ascertaining that
 385 all provisions of this part are complied with by authorized
 386 employees of the division and also by sheriffs, deputy sheriffs,
 387 and police officers during business hours or during any other
 388 time such premises are occupied by the permittee or other
 389 persons. Retail cigarette dealers and manufacturers'
 390 representatives, by dealing in cigarettes, agree that their
 391 places of business or vehicles transporting cigarettes shall
 392 always be subject to inspection and search without a search
 393 warrant for the purpose of ascertaining that all provisions of
 394 this part are complied with by authorized employees of the
 395 division and also by sheriffs, deputy sheriffs, and police
 396 officers during business hours or other times when the premises
 397 are occupied by the retail dealer or manufacturers'
 398 representatives or other persons.

399 (i)~~(h)~~ No retail sales of cigarettes may be made at a
 400 location for which a wholesale dealer, distributing agent, or
 401 exporter permit has been issued. The excise tax on sales made to
 402 any traveling location, such as an itinerant store or industrial
 403 caterer, shall be paid into the General Revenue Fund
 404 unallocated. Cigarettes may be purchased for retail purposes

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405 only from a person holding a wholesale dealer permit. The
 406 invoice for the purchase of cigarettes must show the place of
 407 business for which the purchase is made and the cigarettes
 408 cannot be transferred to any other place of business for the
 409 purpose of resale.

410 Section 8. Subsections (2), (3), and (6) of section
 411 210.18, Florida Statutes, are amended, and subsection (9) is
 412 added to said section, to read:

413 210.18 Penalties for tax evasion; reports by sheriffs.--

414 (2) Except as otherwise provided in this section, any
 415 person ~~wholesale or retail dealer~~ who fails, neglects, or
 416 refuses to comply with, or violates the provisions of, this part
 417 or the rules adopted ~~and regulations promulgated~~ by the division
 418 under this part commits ~~is guilty of~~ a misdemeanor of the first
 419 degree, punishable as provided in s. 775.082 or s. 775.083. Any
 420 person ~~wholesale or retail dealer~~ who has been convicted of a
 421 violation of any provision of the cigarette tax law and who is
 422 thereafter convicted of a further violation of the cigarette tax
 423 law is, upon conviction of such further offense, guilty of a
 424 felony of the third degree, punishable as provided in s.
 425 775.082, s. 775.083, or s. 775.084.

426 (3) Any person who falsely or fraudulently makes, forges,
 427 alters, or counterfeits any stamp or impression die used in
 428 meter machines prescribed by the division under the provisions
 429 of this part; or, with intent to evade taxes, jams, tampers
 430 with, or alters such a machine; or causes or procures to be
 431 falsely or fraudulently made, forged, altered, or counterfeited
 432 any such stamp or die; or knowingly and willfully utters,
 433 purchases, passes or tenders as true any such false, altered, or

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434 counterfeited stamp or die impression; or with the intent to
 435 defraud the state, fails to comply with any other requirement of
 436 this chapter commits ~~is guilty of~~ a felony of the third degree,
 437 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

438 ~~(6)(a) Every person, firm, or corporation, other than a~~
 439 ~~licensee under the provisions of this part, who possesses,~~
 440 ~~removes, deposits, or conceals, or aids in the possessing,~~
 441 ~~removing, depositing, or concealing of, any unstamped cigarettes~~
 442 ~~not in excess of 50 cartons is guilty of a misdemeanor of the~~
 443 ~~second degree, punishable as provided in s. 775.082 or s.~~
 444 ~~775.083. In lieu of the penalties provided in those sections,~~
 445 ~~however, the person, firm, or corporation may pay the tax plus a~~
 446 ~~penalty equal to the amount of the tax authorized under s.~~
 447 ~~210.02 on the unstamped cigarettes.~~

448 ~~(a)(b)~~ Every person, firm, or corporation, other than a
 449 licensee under the provisions of this part, who possesses,
 450 removes, deposits, or conceals, or aids in the possessing,
 451 removing, depositing, or concealing of, any unstamped cigarettes
 452 in excess of 50 cartons is presumed to have knowledge that they
 453 have not been taxed and commits ~~is guilty of~~ a felony of the
 454 third degree, punishable as provided in s. 775.082, s. 775.083,
 455 or s. 775.084.

456 ~~(b)(e)~~ This section does not apply to a person possessing
 457 not in excess of three cartons of such cigarettes purchased by
 458 such possessor outside the state in accordance with the laws of
 459 the place where purchased and brought into this state by such
 460 possessor. The burden of proof that such cigarettes were
 461 purchased outside the state and in accordance with the laws of

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462 the place where purchased shall in all cases be upon the
 463 possessor of such cigarettes.

464 (9) Notwithstanding any other provision of law, the sale
 465 or possession for sale of counterfeit cigarettes by any person
 466 or by a manufacturer, importer, distributing agent, wholesale
 467 dealer, or retail dealer shall result in the seizure of the
 468 product and related machinery by the division or any law
 469 enforcement agency and shall be punishable as follows:

470 (a)1. A first violation with a total quantity of less than
 471 two cartons of cigarettes or the equivalent amount of other
 472 cigarettes shall be punishable by a fine not to exceed \$1,000 or
 473 five times the retail value of the cigarettes involved,
 474 whichever is greater, or imprisonment not to exceed 5 years, or
 475 both.

476 2. A subsequent violation with a total quantity of less
 477 than two cartons of cigarettes or the equivalent amount of other
 478 cigarettes shall be punishable by a fine not to exceed \$5,000 or
 479 five times the retail value of the cigarettes involved,
 480 whichever is greater, or imprisonment not to exceed 5 years, or
 481 both, and shall also result in the revocation by the division of
 482 the permit of the manufacturer, importer, distributing agent,
 483 wholesale dealer, or retail dealer.

484 (b)1. A first violation with a total quantity of two or
 485 more cartons of cigarettes or the equivalent amount of other
 486 cigarettes shall be punishable by a fine not to exceed \$2,000 or
 487 five times the retail value of the cigarettes involved,
 488 whichever is greater, or imprisonment not to exceed 5 years, or
 489 both.

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490 2. A subsequent violation with a quantity of two cartons
 491 of cigarettes or more or the equivalent amount of other
 492 cigarettes shall be punishable by a fine not to exceed \$50,000
 493 or five times the retail value of the cigarettes involved,
 494 whichever is greater, or imprisonment not to exceed 5 years, or
 495 both, and shall also result in the revocation by the division of
 496 the permit of the manufacturer, importer, distributing agent,
 497 wholesale dealer, or retail dealer.

498
 499 For purposes of this subsection, any counterfeit cigarettes
 500 seized by the division shall be destroyed.

501 Section 9. Section 210.181, Florida Statutes, is created
 502 to read:

503 210.181 Civil penalties.--

504 (1) Whoever knowingly omits, neglects, or refuses to
 505 comply with any duty imposed upon him or her by this part, or to
 506 do or cause to be done any of the things required by this part,
 507 or does anything prohibited by this part shall, in addition to
 508 any other penalty provided in this part, be liable for a fine of
 509 \$1,000 or five times the retail value of the cigarettes
 510 involved, whichever is greater.

511 (2) Whoever fails to pay any tax imposed by this part at
 512 the time prescribed by law or rules shall, in addition to any
 513 other penalty provided in this part, be liable for a penalty of
 514 five times the unpaid tax due.

515 Section 10. This act shall take effect upon becoming a
 516 law.