

Bill No. SB 2112

Amendment No. ____ Barcode 893542

CHAMBER ACTION

Senate

House

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Senator Dockery moved the following **substitute for amendment**
(352340):

Senate Amendment (with title amendment)

On page 8, line 5, through page 9, line 2, delete those
lines

and insert:

Section 2. Subsections (6) and (7) of section 210.01,
Florida Statutes, are amended, and subsections (19) through
(23) are added to that section, to read:

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

(6) "Wholesale dealer" means any person located inside
or outside this state who sells cigarettes to retail dealers
or other persons for purposes of resale only, or any person
who operates more than one cigarette vending machine located
in more than one place of business. Such term shall not
include any cigarette manufacturer, export warehouse
proprietor, or importer with a valid permit under 26 U.S.C. s.
5712 if such person sells or distributes cigarettes in this

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1 state only to dealers who are agents and who hold valid and
2 current permits under s. 210.15 or to any cigarette
3 manufacturer, export warehouse proprietor, or importer who
4 holds a valid and current permit under 26 U.S.C. s. 5712.

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

9 (19) "Stamp" or "stamps" means the indicia required to
10 be placed on cigarette packages that evidences payment of the
11 tax on cigarettes under s. 210.02.

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

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

19 (22) "Counterfeit cigarettes" means cigarettes that
20 have false manufacturing labels, tobacco product packs with
21 counterfeit tax stamps, or any combination thereof.

22 (23) "Brand family" means all styles of cigarettes
23 sold under the same trademark and differentiated from one
24 another by means of additional modifiers or descriptors,
25 including, but not limited to, "menthol," "lights," "kings,"
26 and "100s," and includes any brand name used alone or in
27 conjunction with any other word, trademark, logo, symbol,
28 motto, selling message, recognizable pattern of colors, or any
29 other indicia of product identification identical or similar
30 to, or identifiable with, a previously known brand of
31 cigarettes.

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1 Section 3. Subsection (6) is added to section 210.05,
2 Florida Statutes, to read:

3 210.05 Preparation and sale of stamps; discount.--

4 (6)(a) A person may not transport or cause to be
5 transported from this state cigarettes for sale in another
6 state without first affixing to the cigarettes the stamp
7 required by the state in which the cigarettes are to be sold
8 or paying any other excise tax on the cigarettes imposed by
9 the state in which the cigarettes are to be sold.

10 (b) A person may not affix to cigarettes the stamp
11 required by another state or pay any other excise tax on the
12 cigarettes imposed by another state if the other state
13 prohibits stamps from being affixed to the cigarettes,
14 prohibits the payment of any other excise tax on the
15 cigarettes, or prohibits the sale of the cigarettes.

16 (c) The requirements of paragraphs (a) and (b) do not
17 apply to cigarettes with respect to which the manufacturer or
18 importer either is a participating manufacturer (as defined in
19 section II(jj) of the master settlement agreement) or is in
20 full compliance with the qualifying statute (as defined in
21 section IX(d)(2)(E) of the master settlement agreement) of the
22 state in which the cigarettes are to be sold. An exemption
23 pursuant to this paragraph may only be asserted with respect
24 to cigarettes that, in the case of a participating
25 manufacturer, are deemed to be its cigarettes for purposes of
26 calculating its payments under the master settlement agreement
27 for the relevant year in the volumes and shares determined
28 pursuant to the master settlement agreement, and, in the case
29 of all other manufacturers and importers, are deemed to be its
30 cigarettes for purposes of the applicable qualifying statute.
31 For purposes of this subsection the term "master settlement

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1 agreement" means the settlement agreement (and related
2 documents) entered into in 1998 by 46 states and leading
3 United States tobacco manufacturers. A person asserting an
4 exemption pursuant to this paragraph shall submit the reports
5 required by paragraph (d) and shall certify as provided in
6 that paragraph.

7 (d) On or before the 10th day of each month, a person
8 who transports or causes to be transported from this state
9 cigarettes for sale in another state shall submit to the
10 division a report identifying the quantity and brand family of
11 each brand of the cigarettes transported or caused to be
12 transported in the preceding calendar month and the name and
13 address of each recipient of the cigarettes. Such person shall
14 also certify under oath and subject to the penalties of
15 perjury that:

16 1. The stamps required by paragraph (a) have been
17 affixed in accordance with that paragraph or that such stamps
18 were not affixed pursuant to paragraph (b); or

19 2. Such person satisfies the requirements of paragraph
20 (c).

21 (e) For purposes of this section, the term "person"
22 means an individual, partnership, committee, association,
23 corporation, or any other organization or group of persons.
24 Person does not include any common or contract carrier, or
25 public warehouse that is not owned, in whole or in part,
26 directly or indirectly, by the person transporting the
27 cigarettes or causing the transport to be made.

28 (f) This subsection shall not be deemed to authorize
29 the possession or transportation of cigarettes by any person
30 not so authorized by another provision of this part.

31 Section 4. Subsection (1) of section 210.06, Florida

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1 Statutes, is amended, and subsection (5) is added to that
2 section, to read:

3 210.06 Affixation of stamps; presumption.--

4 (1) Every dealer within ~~or without~~ the state shall
5 affix or cause to be affixed to such package or container of
6 such cigarettes ~~such~~, stamps as are required under this
7 section within 10 days after receipt of such products. Dealers
8 outside this state shall affix such stamps before the shipment
9 of cigarettes into this state, evidencing the payment of the
10 tax imposed by virtue of this part before such cigarettes are
11 offered for sale or use or consumed or before they are
12 otherwise disposed of in the state.

13 (a) A tax stamp shall be applied to all cigarette
14 packages intended for sale or distribution to consumers
15 subject to the tax imposed under s. 210.02, except as
16 otherwise provided in this act.

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

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

24 (5) Except as provided in s. 210.09(1), no person,
25 other than a dealer that receives unstamped cigarette packages
26 directly from a cigarette manufacturer or importer in
27 accordance with this section and s. 210.085, shall hold or
28 possess an unstamped cigarette package. Dealers shall be
29 permitted to set aside, without application of stamps, only
30 such part of the dealer's stock that is identified for sale or
31 distribution outside this state. If a dealer maintains stocks

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1 of unstamped cigarette packages, such unstamped packages shall
2 be stored separately from stamped product packages. No
3 unstamped cigarette packages shall be transferred by a dealer
4 to another facility of the dealer within this state or to
5 another person within this state.

6 Section 5. Section 210.085, Florida Statutes, is
7 created to read:

8 210.085 Transactions only with permitted
9 manufacturers, importers, distributing agents, dealers, and
10 retail dealers.--A manufacturer, importer, or distributing
11 agent may sell or distribute cigarettes to a person located or
12 doing business within this state only if such person is a
13 dealer with a valid, current permit under s. 210.15. A dealer
14 may sell or distribute cigarettes to a person located or doing
15 business within this state only if such person is a dealer or
16 retail dealer with a valid, current permit under s. 569.003. A
17 dealer may obtain cigarettes only from a manufacturer or
18 importer who possesses a valid, current permit under 26 U.S.C.
19 s. 5712 or from a distributing agent or dealer with a valid,
20 current permit under s. 210.15. A retail dealer may obtain
21 cigarettes only from a manufacturer, importer, or dealer with
22 a valid, current permit under s. 210.15.

23 Section 6. Subsection (1) of section 210.09, Florida
24 Statutes, is amended to read:

25 210.09 Records to be kept; reports to be made;
26 examination.--

27 (1)(a) Every person who shall possess or transport any
28 unstamped cigarettes upon the public highways, roads, or
29 streets of the state, shall be required to have in his or her
30 actual possession invoices or delivery tickets for such
31 cigarettes. The absence of such invoices or delivery tickets

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1 shall be prima facie evidence that such person is a dealer in
2 cigarettes in this state and subject to the provisions of this
3 part.

4 (b) Any person who ships unstamped cigarette packages
5 into this state other than to a manufacturer, importer, or
6 dealer holding a valid, current permit pursuant to s. 210.15
7 shall first file with the division a notice of such shipment.
8 This paragraph shall not apply to any common or contract
9 carrier that is transporting cigarettes through this state to
10 another location outside this state under a proper bill of
11 lading or freight bill that states the quantity, source, and
12 destination of such cigarettes.

13 (c) In any case in which the division or its duly
14 authorized agent, or any law enforcement officer of this
15 state, has knowledge or reasonable grounds to believe that any
16 vehicle is transporting cigarettes in violation of this part,
17 the division, such agent, or such law enforcement officer is
18 authorized to stop such vehicle and inspect the vehicle for
19 contraband cigarettes.

20 Section 7. Subsection (1) of section 210.12, Florida
21 Statutes, is amended, subsections (2) through (6) of that
22 section are renumbered as subsections (4) through (8),
23 respectively, and new subsections (2) and (3) are added to
24 that section, to read:

25 210.12 Seizures; forfeiture proceedings.--

26 (1) The state, acting by and through the division,
27 shall be authorized and empowered to seize, confiscate, and
28 ~~forfeit for the use and benefit of the state,~~ any cigarettes
29 upon which taxes payable hereunder may be unpaid or that are
30 otherwise held in violation of the requirements of this
31 chapter, and also any vending machine or receptacle in which

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1 ~~such~~ cigarettes upon which taxes have not been paid are held
2 for sale, or any vending machine that does not have affixed
3 thereto the identification sticker required by the provisions
4 of s. 210.07, or which does not display at all times at least
5 one package of each brand of cigarettes located therein so the
6 same is clearly visible and arranged in such a manner that the
7 cigarette tax stamp or meter impression of the stamp affixed
8 thereto is clearly visible. Such seizure may be made by the
9 division, its duly authorized representative, any sheriff or
10 deputy sheriff, or any police officer.

11 (2) All fixtures, equipment, and other materials and
12 personal property on the premises of any dealer or retail
13 dealer who, with intent to defraud the state, fails to keep or
14 make any record, return, report, or inventory required by this
15 part; keeps or makes any false or fraudulent record, return,
16 report, or inventory required by this part; refuses to pay any
17 tax imposed by this part; or attempts in any manner to evade
18 or defeat the requirements of this part shall be forfeited to
19 the state.

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

22 Section 8. Subsection (1) of section 210.15, Florida
23 Statutes, is amended to read:

24 210.15 Permits.--

25 (1)(a) Every person, firm, or corporation desiring to
26 engage in business as a manufacturer, importer, exporter,
27 distributing agent, or wholesale dealer of cigarettes ~~deal in~~
28 ~~cigarettes as a distributing agent, wholesale dealer, or~~
29 ~~exporter~~ within this state shall file with the division an
30 application for a cigarette permit for each place of business
31 located within this state or, in the absence of such place of

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1 business in this state, for wherever its principal place of
2 business is located ~~with the Division of Alcoholic Beverages~~
3 ~~and Tobacco~~. Every application for a cigarette permit shall be
4 made on forms furnished by the division and shall set forth
5 the name under which the applicant transacts or intends to
6 transact business, the location of the applicant's place of
7 business within the state, if any, and such other information
8 as the division may require. If the applicant has or intends
9 to have more than one place of business dealing in cigarettes
10 within this state, the application shall state the location of
11 each place of business. If the applicant is an association,
12 the application shall set forth the names and addresses of the
13 persons constituting the association, and if a corporation,
14 the names and addresses of the principal officers thereof and
15 any other information prescribed by the division for the
16 purpose of identification. The application shall be signed and
17 verified by oath or affirmation by the owner, if a natural
18 person, and in the case of an association or partnership,
19 members or partners thereof, and in the case of a corporation,
20 by an executive officer thereof or by any person specifically
21 authorized by the corporation to sign the application, to
22 which shall be attached the written evidence of this
23 authority. The cigarette permit for a distributing agent shall
24 be issued annually for which an annual fee of \$5 shall be
25 charged.

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

31 (c) Permits ~~The permit for a distributing agent,~~

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1 ~~wholesale dealer, or exporter~~ shall be issued only to persons
 2 of good moral character, who are not less than 18 years of
 3 age. ~~Distributing agent, wholesale dealer, or exporter~~ Permits
 4 to corporations shall be issued only to corporations whose
 5 officers are of good moral character and not less than 18
 6 years of age. There shall be no exemptions from the permit
 7 fees herein provided to any persons, association of persons,
 8 or corporation, any law to the contrary notwithstanding.

9 (d) ~~No distributing agent, wholesale dealer, or~~
 10 ~~exporter~~ permit shall be issued, maintained, or renewed if the
 11 applicant, its officers, or any person or persons owning
 12 directly or indirectly, in the aggregate, more than 10 percent
 13 of the ownership interests in the applicant:

14 1. Owes \$500 or more in delinquent cigarette taxes;
 15 2. Had a cigarette importer, retail dealer, or dealer
 16 permit revoked by the division within the previous 2 years;
 17 3. Has been convicted of selling stolen or counterfeit
 18 cigarettes, receiving stolen cigarettes, or being involved in
 19 the counterfeiting of cigarettes; or
 20 4. ~~Has to any person who has~~ been convicted within the
 21 past 5 years of any offense against the cigarette laws of this
 22 state or ~~who~~ has been convicted in this state, any other
 23 state, or the United States during the past 5 years of any
 24 offense designated as a felony by such state or the United
 25 States, or to a corporation, any of whose officers have been
 26 so convicted. The term "convicted" "~~conviction~~" shall include
 27 an adjudication of guilt on a plea of guilty or a plea of nolo
 28 contendere, or the forfeiture of a bond when charged with a
 29 crime.

30 (e)(d) The division may refuse to issue a ~~distributing~~
 31 ~~agent, wholesale, or exporter~~ permit to any person, firm, or

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1 corporation whose permit under the cigarette law has been
2 revoked or to any corporation, an officer of which has had his
3 or her permit under the cigarette law revoked, or to any
4 person who is or has been an officer of a corporation whose
5 permit has been revoked under the cigarette law. Any permit
6 issued to a firm or corporation prohibited from obtaining such
7 permit under the cigarette law may be revoked by the division.

8 ~~(f)(e)~~ Prior to an application for a distributing
9 agent, wholesale dealer, or exporter permit being approved,
10 the applicant shall file a set of fingerprints on forms
11 provided by the division. The applicant shall also file a set
12 of fingerprints for any person or persons interested directly
13 or indirectly with the applicant in the business for which the
14 permit is being sought, when so required by the division. If
15 the applicant or any person interested with the applicant,
16 either directly or indirectly, in the business for which the
17 permit is sought shall be such a person as is within the
18 definition of persons to whom a ~~distributing agent, wholesale~~
19 ~~dealer, or exporter~~ permit shall be denied, then the
20 application may be denied by the division. If the applicant is
21 a partnership, all members of the partnership are required to
22 file said fingerprints, or if a corporation, all principal
23 officers of the corporation are required to file said
24 fingerprints. The cigarette permit for a wholesale dealer or
25 exporter shall be originally issued at a fee of \$100, which
26 sum is to cover the cost of the investigation required before
27 issuing such permit.

28 ~~(g)(f)~~ The cigarette permits issued under this section
29 ~~permit for a wholesale dealer or exporter~~ shall be renewed
30 from year to year ~~as a matter of course~~, at an annual cost of
31 \$100, on or before July 1, upon making application to the

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1 division and upon payment of the annual renewal fee.

2 ~~(h)(g)~~ Permittees, by acceptance of their permits,
3 agree that their places of business or vehicles transporting
4 cigarettes shall always be subject to be inspected and
5 searched without a search warrant for the purpose of
6 ascertaining that all provisions of this part are complied
7 with by authorized employees of the division and also by
8 sheriffs, deputy sheriffs, and police officers during business
9 hours or during any other time such premises are occupied by
10 the permittee or other persons. Retail cigarette dealers and
11 manufacturers' representatives, by dealing in cigarettes,
12 agree that their places of business or vehicles transporting
13 cigarettes shall always be subject to inspection and search
14 without a search warrant for the purpose of ascertaining that
15 all provisions of this part are complied with by authorized
16 employees of the division and also by sheriffs, deputy
17 sheriffs, and police officers during business hours or other
18 times when the premises are occupied by the retail dealer or
19 manufacturers' representatives or other persons.

20 ~~(i)(h)~~ No retail sales of cigarettes may be made at a
21 location for which a wholesale dealer, distributing agent, or
22 exporter permit has been issued. The excise tax on sales made
23 to any traveling location, such as an itinerant store or
24 industrial caterer, shall be paid into the General Revenue
25 Fund unallocated. Cigarettes may be purchased for retail
26 purposes only from a person holding a wholesale dealer permit.
27 The invoice for the purchase of cigarettes must show the place
28 of business for which the purchase is made and the cigarettes
29 cannot be transferred to any other place of business for the
30 purpose of resale.

31 Section 9. Subsections (2), (3), and (6) of section

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1 210.18, Florida Statutes, are amended, and subsection (9) is
2 added to that section, to read:

3 210.18 Penalties for tax evasion; reports by
4 sheriffs.--

5 (2) Except as otherwise provided in this section, any
6 person ~~wholesale or retail dealer~~ who fails, neglects, or
7 refuses to comply with, or violates the provisions of, this
8 part or the rules adopted and regulations promulgated by the
9 division under this part commits ~~is guilty of~~ a misdemeanor of
10 the first degree, punishable as provided in s. 775.082 or s.
11 775.083. Any person ~~wholesale or retail dealer~~ who has been
12 convicted of a violation of any provision of the cigarette tax
13 law and who is thereafter convicted of a further violation of
14 the cigarette tax law is, upon conviction of such further
15 offense, guilty of a felony of the third degree, punishable as
16 provided in s. 775.082, s. 775.083, or s. 775.084.

17 (3) Any person who falsely or fraudulently makes,
18 forges, alters, or counterfeits any stamp or impression die
19 used in meter machines prescribed by the division under the
20 provisions of this part; or, with intent to evade taxes, jams,
21 tampers with, or alters such a machine; or causes or procures
22 to be falsely or fraudulently made, forged, altered, or
23 counterfeited any such stamp or die; or knowingly and
24 willfully utters, purchases, passes or tenders as true any
25 such false, altered, or counterfeited stamp or die impression;
26 or with the intent to defraud the state, fails to comply with
27 any other requirement of this chapter ~~commits is guilty of~~ a
28 felony of the third degree, punishable as provided in s.
29 775.082, s. 775.083, or s. 775.084.

30 (6)(a) ~~Every person, firm, or corporation, other than~~
31 ~~a licensee under the provisions of this part, who possesses,~~

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1 ~~removes, deposits, or conceals, or aids in the possessing,~~
2 ~~removing, depositing, or concealing of, any unstamped~~
3 ~~cigarettes not in excess of 50 cartons is guilty of a~~
4 ~~misdemeanor of the second degree, punishable as provided in s.~~
5 ~~775.082 or s. 775.083. In lieu of the penalties provided in~~
6 ~~those sections, however, the person, firm, or corporation may~~
7 ~~pay the tax plus a penalty equal to the amount of the tax~~
8 ~~authorized under s. 210.02 on the unstamped cigarettes.~~

9 ~~(a)(b)~~ Every person, firm, or corporation, other than
10 a licensee under the provisions of this part, who possesses,
11 removes, deposits, or conceals, or aids in the possessing,
12 removing, depositing, or concealing of, any unstamped
13 cigarettes in excess of 50 cartons is presumed to have
14 knowledge that they have not been taxed and commits ~~is guilty~~
15 ~~of~~ a felony of the third degree, punishable as provided in s.
16 775.082, s. 775.083, or s. 775.084.

17 ~~(b)(c)~~ This section does not apply to a person
18 possessing not in excess of three cartons of such cigarettes
19 purchased by such possessor outside the state in accordance
20 with the laws of the place where purchased and brought into
21 this state by such possessor. The burden of proof that such
22 cigarettes were purchased outside the state and in accordance
23 with the laws of the place where purchased shall in all cases
24 be upon the possessor of such cigarettes.

25 ~~(9)~~ Notwithstanding any other provision of law, the
26 sale or possession for sale of counterfeit cigarettes by any
27 person or by a manufacturer, importer, distributing agent,
28 wholesale dealer, or retail dealer shall result in the seizure
29 of the product and related machinery by the division or any
30 law enforcement agency and shall be punishable as follows:

31 ~~(a)1.~~ A first violation with a total quantity of less

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1 than two cartons of cigarettes or the equivalent amount of
2 other cigarettes shall be punishable by a fine not to exceed
3 \$1,000 or five times the retail value of the cigarettes
4 involved, whichever is greater, or imprisonment not to exceed
5 5 years, or both.

6 2. A subsequent violation with a total quantity of
7 less than two cartons of cigarettes or the equivalent amount
8 of other cigarettes shall be punishable by a fine not to
9 exceed \$5,000 or five times the retail value of the cigarettes
10 involved, whichever is greater, or imprisonment not to exceed
11 5 years, or both, and shall also result in the revocation by
12 the division of the permit of the manufacturer, importer,
13 distributing agent, wholesale dealer, or retail dealer.

14 (b)1. A first violation with a total quantity of two
15 or more cartons of cigarettes or the equivalent amount of
16 other cigarettes shall be punishable by a fine not to exceed
17 \$2,000 or five times the retail value of the cigarettes
18 involved, whichever is greater, or imprisonment not to exceed
19 5 years, or both.

20 2. A subsequent violation with a quantity of two
21 cartons of cigarettes or more or the equivalent amount of
22 other cigarettes shall be punishable by a fine not to exceed
23 \$50,000 or five times the retail value of the cigarettes
24 involved, whichever is greater, or imprisonment not to exceed
25 5 years, or both, and shall also result in the revocation by
26 the division of the permit of the manufacturer, importer,
27 distributing agent, wholesale dealer, or retail dealer.

28
29 For purposes of this subsection, any counterfeit cigarettes
30 seized by the division shall be destroyed.

31 Section 10. Section 210.181, Florida Statutes, is

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1 created to read:

2 210.181 Civil penalties.--

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

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

14 Section 11. For the purpose of incorporating the
15 amendment made by this act to section 210.18, Florida
16 Statutes, in a reference thereto, paragraph (a) of subsection
17 (1) of section 772.102, Florida Statutes, is reenacted to
18 read:

19 772.102 Definitions.--As used in this chapter, the
20 term:

21 (1) "Criminal activity" means to commit, to attempt to
22 commit, to conspire to commit, or to solicit, coerce, or
23 intimidate another person to commit:

24 (a) Any crime which is chargeable by indictment or
25 information under the following provisions:

26 1. Section 210.18, relating to evasion of payment of
27 cigarette taxes.

28 2. Section 414.39, relating to public assistance
29 fraud.

30 3. Section 440.105 or s. 440.106, relating to workers'
31 compensation.

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- 1 4. Part IV of chapter 501, relating to telemarketing.
- 2 5. Chapter 517, relating to securities transactions.
- 3 6. Section 550.235, s. 550.3551, or s. 550.3605,
- 4 relating to dogracing and horseracing.
- 5 7. Chapter 550, relating to jai alai frontons.
- 6 8. Chapter 552, relating to the manufacture,
- 7 distribution, and use of explosives.
- 8 9. Chapter 562, relating to beverage law enforcement.
- 9 10. Section 624.401, relating to transacting insurance
- 10 without a certificate of authority, s. 624.437(4)(c)1.,
- 11 relating to operating an unauthorized multiple-employer
- 12 welfare arrangement, or s. 626.902(1)(b), relating to
- 13 representing or aiding an unauthorized insurer.
- 14 11. Chapter 687, relating to interest and usurious
- 15 practices.
- 16 12. Section 721.08, s. 721.09, or s. 721.13, relating
- 17 to real estate timeshare plans.
- 18 13. Chapter 782, relating to homicide.
- 19 14. Chapter 784, relating to assault and battery.
- 20 15. Chapter 787, relating to kidnapping.
- 21 16. Chapter 790, relating to weapons and firearms.
- 22 17. Section 796.03, s. 796.04, s. 796.05, or s.
- 23 796.07, relating to prostitution.
- 24 18. Chapter 806, relating to arson.
- 25 19. Section 810.02(2)(c), relating to specified
- 26 burglary of a dwelling or structure.
- 27 20. Chapter 812, relating to theft, robbery, and
- 28 related crimes.
- 29 21. Chapter 815, relating to computer-related crimes.
- 30 22. Chapter 817, relating to fraudulent practices,
- 31 false pretenses, fraud generally, and credit card crimes.

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- 1 23. Section 827.071, relating to commercial sexual
2 exploitation of children.
- 3 24. Chapter 831, relating to forgery and
4 counterfeiting.
- 5 25. Chapter 832, relating to issuance of worthless
6 checks and drafts.
- 7 26. Section 836.05, relating to extortion.
- 8 27. Chapter 837, relating to perjury.
- 9 28. Chapter 838, relating to bribery and misuse of
10 public office.
- 11 29. Chapter 843, relating to obstruction of justice.
- 12 30. Section 847.011, s. 847.012, s. 847.013, s.
13 847.06, or s. 847.07, relating to obscene literature and
14 profanity.
- 15 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
16 or s. 849.25, relating to gambling.
- 17 32. Chapter 893, relating to drug abuse prevention and
18 control.
- 19 33. Section 914.22 or s. 914.23, relating to
20 witnesses, victims, or informants.
- 21 34. Section 918.12 or s. 918.13, relating to tampering
22 with jurors and evidence.
- 23 Section 12. For the purpose of incorporating the
24 amendment made by this act to section 210.18, Florida
25 Statutes, in a reference thereto, paragraph (a) of subsection
26 (1) of section 895.02, Florida Statutes, is reenacted to read:
27 895.02 Definitions.--As used in ss. 895.01-895.08, the
28 term:
- 29 (1) "Racketeering activity" means to commit, to
30 attempt to commit, to conspire to commit, or to solicit,
31 coerce, or intimidate another person to commit:

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- 1 (a) Any crime which is chargeable by indictment or
2 information under the following provisions of the Florida
3 Statutes:
- 4 1. Section 210.18, relating to evasion of payment of
5 cigarette taxes.
 - 6 2. Section 403.727(3)(b), relating to environmental
7 control.
 - 8 3. Section 414.39, relating to public assistance
9 fraud.
 - 10 4. Section 409.920, relating to Medicaid provider
11 fraud.
 - 12 5. Section 440.105 or s. 440.106, relating to workers'
13 compensation.
 - 14 6. Sections 499.0051, 499.0052, 499.0053, 499.0054,
15 and 499.0691, relating to crimes involving contraband and
16 adulterated drugs.
 - 17 7. Part IV of chapter 501, relating to telemarketing.
 - 18 8. Chapter 517, relating to sale of securities and
19 investor protection.
 - 20 9. Section 550.235, s. 550.3551, or s. 550.3605,
21 relating to dogracing and horseracing.
 - 22 10. Chapter 550, relating to jai alai frontons.
 - 23 11. Chapter 552, relating to the manufacture,
24 distribution, and use of explosives.
 - 25 12. Chapter 560, relating to money transmitters, if
26 the violation is punishable as a felony.
 - 27 13. Chapter 562, relating to beverage law enforcement.
 - 28 14. Section 624.401, relating to transacting insurance
29 without a certificate of authority, s. 624.437(4)(c)1.,
30 relating to operating an unauthorized multiple-employer
31 welfare arrangement, or s. 626.902(1)(b), relating to

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- 1 representing or aiding an unauthorized insurer.
- 2 15. Section 655.50, relating to reports of currency
- 3 transactions, when such violation is punishable as a felony.
- 4 16. Chapter 687, relating to interest and usurious
- 5 practices.
- 6 17. Section 721.08, s. 721.09, or s. 721.13, relating
- 7 to real estate timeshare plans.
- 8 18. Chapter 782, relating to homicide.
- 9 19. Chapter 784, relating to assault and battery.
- 10 20. Chapter 787, relating to kidnapping.
- 11 21. Chapter 790, relating to weapons and firearms.
- 12 22. Section 796.03, s. 796.04, s. 796.05, or s.
- 13 796.07, relating to prostitution.
- 14 23. Chapter 806, relating to arson.
- 15 24. Section 810.02(2)(c), relating to specified
- 16 burglary of a dwelling or structure.
- 17 25. Chapter 812, relating to theft, robbery, and
- 18 related crimes.
- 19 26. Chapter 815, relating to computer-related crimes.
- 20 27. Chapter 817, relating to fraudulent practices,
- 21 false pretenses, fraud generally, and credit card crimes.
- 22 28. Chapter 825, relating to abuse, neglect, or
- 23 exploitation of an elderly person or disabled adult.
- 24 29. Section 827.071, relating to commercial sexual
- 25 exploitation of children.
- 26 30. Chapter 831, relating to forgery and
- 27 counterfeiting.
- 28 31. Chapter 832, relating to issuance of worthless
- 29 checks and drafts.
- 30 32. Section 836.05, relating to extortion.
- 31 33. Chapter 837, relating to perjury.

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1 34. Chapter 838, relating to bribery and misuse of
2 public office.

3 35. Chapter 843, relating to obstruction of justice.

4 36. Section 847.011, s. 847.012, s. 847.013, s.
5 847.06, or s. 847.07, relating to obscene literature and
6 profanity.

7 37. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
8 or s. 849.25, relating to gambling.

9 38. Chapter 874, relating to criminal street gangs.

10 39. Chapter 893, relating to drug abuse prevention and
11 control.

12 40. Chapter 896, relating to offenses related to
13 financial transactions.

14 41. Sections 914.22 and 914.23, relating to tampering
15 with a witness, victim, or informant, and retaliation against
16 a witness, victim, or informant.

17 42. Sections 918.12 and 918.13, relating to tampering
18 with jurors and evidence.

19 Section 13. For the 2004-2005 fiscal year, the sum of
20 \$480,028 is appropriated from the Alcoholic Beverage and
21 Tobacco Trust Fund and four full-time equivalent positions are
22 authorized to be established by the Department of Business and
23 Professional Regulation for the purpose of conducting
24 regulatory activities related to the transportation and sale
25 of cigarettes.

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28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 On page 1, line 28, through page 2, line 6, delete
31 those lines

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

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1 amending s. 210.18, F.S.; expanding the group
2 of violators subject to criminal liability;
3 prohibiting the sale or possession for sale of
4 counterfeit cigarettes; providing penalties;
5 creating s. 210.181, F.S.; providing civil
6 penalties for failure to comply with certain
7 duties or pay certain taxes; reenacting ss.
8 772.102(1)(a) and 895.02(1)(a), F.S., relating
9 to crimes constituting a "criminal activity"
10 and definitions as used in the Florida RICO
11 Act, to incorporate the amendment to s. 210.18,
12 F.S., in references thereto; providing an
13 appropriation and authorizing positions;
14 providing an effective

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