



1 criteria for permit applications; prohibiting  
2 the issuance, maintenance, or renewal of  
3 certain permits for certain applicants;  
4 providing guidelines for permit application  
5 denial; amending s. 210.16, F.S.; authorizing  
6 the division to revoke a person's permit for  
7 certain violations; prohibiting a person whose  
8 permit has been revoked from engaging in  
9 business; prohibiting a person whose permit has  
10 been revoked from renewing or obtaining a new  
11 permit for a certain period of time;  
12 authorizing the division to impose a civil  
13 penalty not to exceed a certain dollar amount  
14 in addition to revocation of a permit; amending  
15 s. 210.18, F.S.; expanding the group of  
16 violators subject to criminal liability;  
17 prohibiting the sale or possession for sale of  
18 counterfeit cigarettes; providing penalties;  
19 creating s. 210.181, F.S.; providing civil  
20 penalties for failure to comply with certain  
21 duties or pay certain taxes; reenacting ss.  
22 772.102(1)(a) and 895.02(1)(a), F.S., relating  
23 to crimes constituting a "criminal activity"  
24 and definitions as used in the Florida RICO  
25 Act, to incorporate the amendment to s. 210.18,  
26 F.S., in references thereto; providing an  
27 effective date.

28  
29 Be It Enacted by the Legislature of the State of Florida:  
30  
31

1           Section 1. Subsections (6) and (7) of section 210.01,  
2 Florida Statutes, are amended, and subsections (19) through  
3 (22) are added to that section, to read:

4           210.01 Definitions.--When used in this part the  
5 following words shall have the meaning herein indicated:

6           (6) "Wholesale dealer" means any person located inside  
7 or outside this state who sells cigarettes to retail dealers  
8 or other persons for purposes of resale only, or any person  
9 who operates more than one cigarette vending machine located  
10 in more than one place of business. The term does not include  
11 any cigarette manufacturer, export warehouse proprietor, or  
12 importer with a valid permit under 26 U.S.C. s. 5712 if such  
13 person sells or distributes cigarettes in this state only to  
14 dealers who are agents and who hold valid and current permits  
15 under s. 210.15 or to any cigarette manufacturer, export  
16 warehouse proprietor, or importer who holds a valid and  
17 current permit under 26 U.S.C. s. 5712.

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

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

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

29           (21) "Manufacturer" means any domestic or foreign  
30 person or entity that manufactures, fabricates, assembles,  
31 processes, or labels a finished cigarette.

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

4           Section 2. Subsection (1) of section 210.06, Florida  
5 Statutes, is amended, and subsection (5) is added to that  
6 section, to read:

7           210.06 Affixation of stamps; presumption.--

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

17           (a) A tax stamp shall be applied to all cigarette  
18 packages intended for sale or distribution to consumers  
19 subject to the tax imposed under s. 210.02, except as  
20 otherwise provided in this part.

21           (b) A stamp may not be applied to any cigarette  
22 package exempt from tax under 26 U.S.C. s. 5704 which is  
23 distributed by a manufacturer pursuant to federal regulations.

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

28           (5) Except as provided in s. 210.09(1), a person,  
29 other than a dealer that receives unstamped cigarette packages  
30 directly from a cigarette manufacturer or importer in  
31 accordance with this section and s. 210.085, may not hold or

1 possess an unstamped cigarette package. Dealers shall be  
2 permitted to set aside, without application of stamps, only  
3 such part of the dealer's stock which is identified for sale  
4 or distribution outside this state. If a dealer maintains  
5 stocks of unstamped cigarette packages, such unstamped  
6 packages shall be stored separately from stamped product  
7 packages. Unstamped cigarette packages may not be transferred  
8 by a dealer to another facility of the dealer within this  
9 state or to another person within this state.

10 Section 3. Section 210.085, Florida Statutes, is  
11 created to read:

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

29 Section 4. Subsections (1), (3), and (4) of section  
30 210.09, Florida Statutes, are amended to read:

31

1           210.09 Records to be kept; reports to be made;  
2 examination.--

3           (1)(a) Every person who shall possess or transport any  
4 unstamped cigarettes upon the public highways, roads, or  
5 streets of the state, shall be required to have in his or her  
6 actual possession invoices or delivery tickets for such  
7 cigarettes. The absence of such invoices or delivery tickets  
8 shall be prima facie evidence that such person is a dealer in  
9 cigarettes in this state and subject to the provisions of this  
10 part.

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

20           (c) In any case in which the division or its duly  
21 authorized agent, or any law enforcement officer of this  
22 state, has knowledge or reasonable grounds to believe that any  
23 vehicle is transporting cigarettes in violation of this part,  
24 the division, such agent, or such law enforcement officer may  
25 stop such vehicle and inspect the vehicle for contraband  
26 cigarettes.

27           (3) All manufacturers, importers, distributing agents,  
28 wholesale dealers, agents, or retail dealers shall maintain  
29 and keep for a period of 3 years at the place of business  
30 where any transaction takes place, such records of cigarettes  
31 received, sold, or delivered within the state as may be

1 required by the division. The division or its duly authorized  
2 representative ~~may is hereby authorized to~~ examine the books,  
3 papers, invoices, and other records; ~~;~~ the stock of cigarettes  
4 in and upon any premises where the same are placed, stored,  
5 and sold; ~~;~~ and the equipment of any such manufacturers,  
6 importers, distributing agents, wholesale dealers, agents, or  
7 retail dealers; pertaining to the sale and delivery of  
8 cigarettes taxable under this part. To verify the accuracy of  
9 the tax imposed and assessed by this part, each person shall  
10 ~~is hereby directed and required to~~ give to the division or its  
11 duly authorized representatives the means, facilities, and  
12 opportunity for such examinations as are ~~herein~~ provided for  
13 and required in this section.

14 (4)(a) All persons who are ~~either~~ cigarette  
15 manufacturers, importers, wholesalers, ~~vending machine~~  
16 ~~operators~~ or distributing agents, and agents and employees of  
17 the same, shall ~~are required to~~ keep daily sales tickets or  
18 invoices of cigarette sales and ~~it shall be the duty of said~~  
19 ~~persons to~~ see that each sales ticket and invoice handled by  
20 them or on behalf of them show the correct name and address to  
21 whom sold and the number of packages or cartons of each brand  
22 sold. It shall also be the duty of said persons to see that  
23 each sales ticket or invoice correctly shows whether the same  
24 is inside or outside of a qualified municipality and if the  
25 sale is made within the limits of a qualified municipality,  
26 the correct name of the municipality must be indicated.

27 (b) The division shall suspend or revoke the license  
28 of any person who is ~~either~~ a cigarette wholesaler, vending  
29 machine operator, ~~,~~ or distributing agent upon sufficient cause  
30 appearing that the said persons, their agents, ~~,~~ or employees  
31

1 have failed to keep daily sales tickets or invoices in  
2 accordance with this section.

3 Section 5. Subsection (1) of section 210.12, Florida  
4 Statutes, is amended, subsections (2) through (6) of that  
5 section are renumbered as subsections (4) through (8),  
6 respectively, and new subsections (2) and (3) are added to  
7 that section, to read:

8 210.12 Seizures; forfeiture proceedings.--

9 (1) The state, acting by and through the division, may  
10 ~~shall be authorized and empowered to~~ seize, confiscate, and  
11 ~~forfeit for the use and benefit of the state,~~ any cigarettes  
12 upon which taxes payable hereunder may be unpaid or which are  
13 otherwise held in violation of the requirements of this  
14 chapter, and also any vending machine or receptacle in which  
15 ~~such~~ cigarettes upon which taxes have not been paid are held  
16 for sale, or any vending machine that does not have affixed  
17 thereto the identification sticker required by the provisions  
18 of s. 210.07, or which does not display at all times at least  
19 one package of each brand of cigarettes located therein so the  
20 same is clearly visible and arranged in such a manner that the  
21 cigarette tax stamp or meter impression of the stamp affixed  
22 thereto is clearly visible. Such seizure may be made by the  
23 division, its duly authorized representative, any sheriff or  
24 deputy sheriff, or any police officer.

25 (2) All fixtures, equipment, and other materials and  
26 personal property on the premises of any dealer or retail  
27 dealer who, with intent to defraud the state, fails to keep or  
28 make any record, return, report, or inventory required by this  
29 part; keeps or makes any false or fraudulent record, return,  
30 report, or inventory required by this part; refuses to pay any  
31 tax imposed by this part; or attempts in any manner to evade

1 or defeat the requirements of this part shall be forfeited to  
2 the state.

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

5 Section 6. Subsection (1) of section 210.15, Florida  
6 Statutes, is amended to read:

7 210.15 Permits.--

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

1 person, and in the case of an association or partnership,  
2 members or partners thereof, and in the case of a corporation,  
3 by an executive officer thereof or by any person specifically  
4 authorized by the corporation to sign the application, to  
5 which shall be attached the written evidence of this  
6 authority. The cigarette permit for a distributing agent shall  
7 be issued annually for which an annual fee of \$5 shall be  
8 charged.

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

14 (c) Permits ~~The permit for a distributing agent,~~  
15 ~~wholesale dealer, or exporter~~ shall be issued only to persons  
16 of good moral character, who are not less than 18 years of  
17 age. ~~Distributing agent, wholesale dealer, or exporter~~ Permits  
18 to corporations shall be issued only to corporations whose  
19 officers are of good moral character and not less than 18  
20 years of age. There shall be no exemptions from the permit  
21 fees herein provided to any persons, association of persons,  
22 or corporation, any law to the contrary notwithstanding.

23 (d) ~~A No distributing agent, wholesale dealer, or~~  
24 ~~exporter permit may not shall~~ be issued, maintained, or  
25 renewed under this part or chapter 569 if the applicant, its  
26 officers, or any person or persons owning directly or  
27 indirectly, in the aggregate, more than 10 percent of the  
28 ownership interests in the applicant:

- 29 1. Owes \$500 or more in delinquent cigarette taxes;  
30  
31

1           2. Had a cigarette manufacturer, importer, retail  
2 dealer, or dealer permit revoked by the division within the  
3 previous 2 years;

4           3. Has been convicted of selling stolen or counterfeit  
5 cigarettes, receiving stolen cigarettes, or being involved in  
6 the counterfeiting of cigarettes;

7           ~~4. Has to any person who has~~ been convicted within the  
8 past 5 years of any offense against the cigarette laws of this  
9 state or ~~who~~ has been convicted in this state, any other  
10 state, or the United States during the past 5 years of any  
11 offense designated as a felony by such state or the United  
12 States, or to a corporation, any of whose officers have been  
13 so convicted. The term "convicted" ~~"conviction"~~ shall include  
14 an adjudication of guilt on a plea of guilty or a plea of nolo  
15 contendere, or the forfeiture of a bond when charged with a  
16 crime;—

17           5. Has imported or caused to be imported into the  
18 United States any cigarette in violation of 19 U.S.C. 1681a;  
19 or

20           6. Has imported or caused to be imported into the  
21 United States, or manufactured for sale or distribution in the  
22 United States, any cigarette that does not fully comply with  
23 the Federal Cigarette Labeling and Advertising Act, 15 U.S.C.  
24 1331 et seq.

25           ~~(e)(d)~~ The division may refuse to issue a ~~distributing~~  
26 ~~agent, wholesale, or exporter~~ permit to any person, firm, or  
27 corporation whose permit under the cigarette law has been  
28 revoked or to any corporation, an officer of which has had his  
29 or her permit under the cigarette law revoked, or to any  
30 person who is or has been an officer of a corporation whose  
31 permit has been revoked under the cigarette law. Any permit

1 issued to a firm or corporation prohibited from obtaining such  
2 permit under the cigarette law may be revoked by the division.

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

23 ~~(g)(f)~~ The cigarette permits issued under this section  
24 ~~permit for a wholesale dealer or exporter~~ shall be renewed  
25 from year to year ~~as a matter of course,~~ at an annual cost of  
26 \$100, on or before July 1, upon making application to the  
27 division and upon payment of the annual renewal fee.

28 ~~(h)(g)~~ Permittees, by acceptance of their permits,  
29 agree that their places of business or vehicles transporting  
30 cigarettes shall always be subject to be inspected and  
31 searched without a search warrant for the purpose of

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

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

26 |        Section 7. Section 210.16, Florida Statutes, is  
27 | amended to read:

28 |        210.16 Revocation or suspension of permit.--

29 |        (1) The Division of Alcoholic Beverages and Tobacco  
30 | ~~may is given full power and authority to~~ revoke the permit of  
31 | any person ~~wholesale dealer~~ receiving a permit to engage in

1 business under this part or chapter 569 for violation of any  
2 of the provisions of this part.

3 (2) The division shall revoke the permit of any person  
4 who would be ineligible to obtain or to renew a license by  
5 reason of any of the conditions for permitting provided in s.  
6 210.15(1)(d)1.-5.

7 (3)(2) The division may suspend for a reasonable  
8 period of time or revoke, in its discretion, the permits ~~of~~  
9 ~~wholesale dealers~~ issued under the provisions of this part or  
10 chapter 569 to any person who has violated any other provision  
11 of this part for the same causes and under the same  
12 limitations as is authorized hereunder to revoke the permits  
13 of such wholesale dealers.

14 (4)(3) A person ~~No wholesale dealer~~ whose permit for  
15 any place of business has been revoked may not shall engage in  
16 business under this part or chapter 569 at such place of  
17 business after such revocation until a new permit is issued. A  
18 person ~~No wholesale dealer~~ whose permit for any place of  
19 business has been revoked may not shall be permitted to have  
20 the said permit renewed, and may not or to obtain an  
21 additional cigarette permit for any other place of business,  
22 for a period of 2 years 6 months after the date such  
23 revocation becomes final.

24 (5)(4) In addition to lieu of the suspension or  
25 revocation of permits, the division may impose civil penalties  
26 against holders of permits for violations of this part or  
27 rules ~~and regulations~~ relating thereto. A ~~No~~ civil penalty so  
28 imposed may not shall exceed ~~\$2,500\$1,000~~ for each offense,  
29 and all amounts collected shall be deposited with the Chief  
30 Financial Officer to the credit of the General Revenue Fund.  
31 If the holder of the permit fails to pay the civil penalty,

1 his or her permit shall be suspended for such period of time  
2 as the division may specify.

3 Section 8. Subsections (2), (3), and (6) of section  
4 210.18, Florida Statutes, are amended, and subsection (9) is  
5 added to that section, to read:

6 210.18 Penalties for tax evasion; reports by  
7 sheriffs.--

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

20 (3) Any person who falsely or fraudulently makes,  
21 forges, alters, or counterfeits any stamp or impression die  
22 used in meter machines prescribed by the division under the  
23 provisions of this part; or, with intent to evade taxes, jams,  
24 tampers with, or alters such a machine; or causes or procures  
25 to be falsely or fraudulently made, forged, altered, or  
26 counterfeited any such stamp or die; or knowingly and  
27 willfully utters, purchases, passes or tenders as true any  
28 such false, altered, or counterfeited stamp or die impression;  
29 or with the intent to defraud the state, fails to comply with  
30 any other requirement of this chapter ~~commits is guilty of a~~  
31

1 felony of the third degree, punishable as provided in s.  
2 775.082, s. 775.083, or s. 775.084.

3 ~~(6)(a) Every person, firm, or corporation, other than~~  
4 ~~a licensee under the provisions of this part, who possesses,~~  
5 ~~removes, deposits, or conceals, or aids in the possessing,~~  
6 ~~removing, depositing, or concealing of, any unstamped~~  
7 ~~cigarettes not in excess of 50 cartons is guilty of a~~  
8 ~~misdemeanor of the second degree, punishable as provided in s.~~  
9 ~~775.082 or s. 775.083. In lieu of the penalties provided in~~  
10 ~~those sections, however, the person, firm, or corporation may~~  
11 ~~pay the tax plus a penalty equal to the amount of the tax~~  
12 ~~authorized under s. 210.02 on the unstamped cigarettes.~~

13 ~~(a)(b)~~ Every person, firm, or corporation, other than  
14 a licensee under the provisions of this part, who possesses,  
15 removes, deposits, or conceals, or aids in the possessing,  
16 removing, depositing, or concealing of, any unstamped  
17 cigarettes in excess of 50 cartons is presumed to have  
18 knowledge that they have not been taxed and commits ~~is guilty~~  
19 ~~of~~ a felony of the third degree, punishable as provided in s.  
20 775.082, s. 775.083, or s. 775.084.

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

29 (9) Notwithstanding any other provision of law, the  
30 sale or possession for sale of counterfeit cigarettes by any  
31 person or by a manufacturer, importer, distributing agent,

1 wholesale dealer, or retail dealer shall result in the seizure  
2 of the product and related machinery by the division or any  
3 law enforcement agency and shall be punishable as follows:

4 (a)1. A first violation with a total quantity of fewer  
5 than two cartons of cigarettes or the equivalent amount of  
6 other cigarettes shall be punishable by a fine not to exceed  
7 \$1,000 or five times the retail value of the cigarettes  
8 involved, whichever is greater, or imprisonment not to exceed  
9 5 years, or both.

10 2. A subsequent violation with a total quantity of  
11 fewer than two cartons of cigarettes or the equivalent amount  
12 of other cigarettes shall be punishable by a fine not to  
13 exceed \$5,000 or five times the retail value of the cigarettes  
14 involved, whichever is greater, or imprisonment not to exceed  
15 5 years, or both, and shall also result in the revocation by  
16 the division of the permit of the manufacturer, importer,  
17 distributing agent, wholesale dealer, or retail dealer.

18 (b)1. A first violation with a total quantity of two  
19 or more cartons of cigarettes or the equivalent amount of  
20 other cigarettes shall be punishable by a fine not to exceed  
21 \$2,000 or five times the retail value of the cigarettes  
22 involved, whichever is greater, or imprisonment not to exceed  
23 5 years, or both.

24 2. A subsequent violation with a quantity of two  
25 cartons of cigarettes or more or the equivalent amount of  
26 other cigarettes shall be punishable by a fine not to exceed  
27 \$50,000 or five times the retail value of the cigarettes  
28 involved, whichever is greater, or imprisonment not to exceed  
29 5 years, or both, and shall also result in the revocation by  
30 the division of the permit of the manufacturer, importer,  
31 distributing agent, wholesale dealer, or retail dealer.

1  
2 For purposes of this subsection, any counterfeit cigarettes  
3 seized by the division shall be destroyed.

4 Section 9. Section 210.181, Florida Statutes, is  
5 created to read:

6 210.181 Civil penalties.--

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

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

18 Section 10. For the purpose of incorporating the  
19 amendment made by this act to section 210.18, Florida  
20 Statutes, in a reference thereto, paragraph (a) of subsection  
21 (1) of section 772.102, Florida Statutes, is reenacted to  
22 read:

23 772.102 Definitions.--As used in this chapter, the  
24 term:

25 (1) "Criminal activity" means to commit, to attempt to  
26 commit, to conspire to commit, or to solicit, coerce, or  
27 intimidate another person to commit:

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

30 1. Section 210.18, relating to evasion of payment of  
31 cigarette taxes.

- 1           2. Section 414.39, relating to public assistance
- 2 fraud.
- 3           3. Section 440.105 or s. 440.106, relating to workers'
- 4 compensation.
- 5           4. Part IV of chapter 501, relating to telemarketing.
- 6           5. Chapter 517, relating to securities transactions.
- 7           6. Section 550.235, s. 550.3551, or s. 550.3605,
- 8 relating to dogracing and horseracing.
- 9           7. Chapter 550, relating to jai alai frontons.
- 10          8. Chapter 552, relating to the manufacture,
- 11 distribution, and use of explosives.
- 12          9. Chapter 562, relating to beverage law enforcement.
- 13          10. Section 624.401, relating to transacting insurance
- 14 without a certificate of authority, s. 624.437(4)(c)1.,
- 15 relating to operating an unauthorized multiple-employer
- 16 welfare arrangement, or s. 626.902(1)(b), relating to
- 17 representing or aiding an unauthorized insurer.
- 18          11. Chapter 687, relating to interest and usurious
- 19 practices.
- 20          12. Section 721.08, s. 721.09, or s. 721.13, relating
- 21 to real estate timeshare plans.
- 22          13. Chapter 782, relating to homicide.
- 23          14. Chapter 784, relating to assault and battery.
- 24          15. Chapter 787, relating to kidnapping.
- 25          16. Chapter 790, relating to weapons and firearms.
- 26          17. Section 796.03, s. 796.04, s. 796.05, or s.
- 27 796.07, relating to prostitution.
- 28          18. Chapter 806, relating to arson.
- 29          19. Section 810.02(2)(c), relating to specified
- 30 burglary of a dwelling or structure.
- 31

- 1           20. Chapter 812, relating to theft, robbery, and  
2 related crimes.
- 3           21. Chapter 815, relating to computer-related crimes.
- 4           22. Chapter 817, relating to fraudulent practices,  
5 false pretenses, fraud generally, and credit card crimes.
- 6           23. Section 827.071, relating to commercial sexual  
7 exploitation of children.
- 8           24. Chapter 831, relating to forgery and  
9 counterfeiting.
- 10          25. Chapter 832, relating to issuance of worthless  
11 checks and drafts.
- 12          26. Section 836.05, relating to extortion.
- 13          27. Chapter 837, relating to perjury.
- 14          28. Chapter 838, relating to bribery and misuse of  
15 public office.
- 16          29. Chapter 843, relating to obstruction of justice.
- 17          30. Section 847.011, s. 847.012, s. 847.013, s.  
18 847.06, or s. 847.07, relating to obscene literature and  
19 profanity.
- 20          31. Section 849.09, s. 849.14, s. 849.15, s. 849.23,  
21 or s. 849.25, relating to gambling.
- 22          32. Chapter 893, relating to drug abuse prevention and  
23 control.
- 24          33. Section 914.22 or s. 914.23, relating to  
25 witnesses, victims, or informants.
- 26          34. Section 918.12 or s. 918.13, relating to tampering  
27 with jurors and evidence.
- 28          Section 11. For the purpose of incorporating the  
29 amendment made by this act to section 210.18, Florida  
30 Statutes, in a reference thereto, paragraph (a) of subsection  
31 (1) of section 895.02, Florida Statutes, is reenacted to read:

1           895.02 Definitions.--As used in ss. 895.01-895.08, the  
2 term:

3           (1) "Racketeering activity" means to commit, to  
4 attempt to commit, to conspire to commit, or to solicit,  
5 coerce, or intimidate another person to commit:

6           (a) Any crime which is chargeable by indictment or  
7 information under the following provisions of the Florida  
8 Statutes:

9           1. Section 210.18, relating to evasion of payment of  
10 cigarette taxes.

11           2. Section 403.727(3)(b), relating to environmental  
12 control.

13           3. Section 409.920 or s. 409.9201, relating to  
14 Medicaid fraud.

15           4. Section 414.39, relating to public assistance  
16 fraud.

17           5. Section 440.105 or s. 440.106, relating to workers'  
18 compensation.

19           6. Section 465.0161, relating to distribution of  
20 medicinal drugs without a permit as an Internet pharmacy.

21           7. Sections 499.0051, 499.0052, 499.00535, 499.00545,  
22 and 499.0691, relating to crimes involving contraband and  
23 adulterated drugs.

24           8. Part IV of chapter 501, relating to telemarketing.

25           9. Chapter 517, relating to sale of securities and  
26 investor protection.

27           10. Section 550.235, s. 550.3551, or s. 550.3605,  
28 relating to dogracing and horseracing.

29           11. Chapter 550, relating to jai alai frontons.

30           12. Chapter 552, relating to the manufacture,  
31 distribution, and use of explosives.

- 1           13. Chapter 560, relating to money transmitters, if
- 2 the violation is punishable as a felony.
- 3           14. Chapter 562, relating to beverage law enforcement.
- 4           15. Section 624.401, relating to transacting insurance
- 5 without a certificate of authority, s. 624.437(4)(c)1.,
- 6 relating to operating an unauthorized multiple-employer
- 7 welfare arrangement, or s. 626.902(1)(b), relating to
- 8 representing or aiding an unauthorized insurer.
- 9           16. Section 655.50, relating to reports of currency
- 10 transactions, when such violation is punishable as a felony.
- 11           17. Chapter 687, relating to interest and usurious
- 12 practices.
- 13           18. Section 721.08, s. 721.09, or s. 721.13, relating
- 14 to real estate timeshare plans.
- 15           19. Chapter 782, relating to homicide.
- 16           20. Chapter 784, relating to assault and battery.
- 17           21. Chapter 787, relating to kidnapping.
- 18           22. Chapter 790, relating to weapons and firearms.
- 19           23. Section 796.03, s. 796.035, s. 796.04, s. 796.045,
- 20 s. 796.05, or s. 796.07, relating to prostitution and sex
- 21 trafficking.
- 22           24. Chapter 806, relating to arson.
- 23           25. Section 810.02(2)(c), relating to specified
- 24 burglary of a dwelling or structure.
- 25           26. Chapter 812, relating to theft, robbery, and
- 26 related crimes.
- 27           27. Chapter 815, relating to computer-related crimes.
- 28           28. Chapter 817, relating to fraudulent practices,
- 29 false pretenses, fraud generally, and credit card crimes.
- 30           29. Chapter 825, relating to abuse, neglect, or
- 31 exploitation of an elderly person or disabled adult.

- 1           30. Section 827.071, relating to commercial sexual  
2 exploitation of children.
- 3           31. Chapter 831, relating to forgery and  
4 counterfeiting.
- 5           32. Chapter 832, relating to issuance of worthless  
6 checks and drafts.
- 7           33. Section 836.05, relating to extortion.
- 8           34. Chapter 837, relating to perjury.
- 9           35. Chapter 838, relating to bribery and misuse of  
10 public office.
- 11          36. Chapter 843, relating to obstruction of justice.
- 12          37. 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          38. Section 849.09, s. 849.14, s. 849.15, s. 849.23,  
16 or s. 849.25, relating to gambling.
- 17          39. Chapter 874, relating to criminal street gangs.
- 18          40. Chapter 893, relating to drug abuse prevention and  
19 control.
- 20          41. Chapter 896, relating to offenses related to  
21 financial transactions.
- 22          42. Sections 914.22 and 914.23, relating to tampering  
23 with a witness, victim, or informant, and retaliation against  
24 a witness, victim, or informant.
- 25          43. Sections 918.12 and 918.13, relating to tampering  
26 with jurors and evidence.
- 27          Section 12. This act shall take effect upon becoming a  
28 law.
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SENATE SUMMARY

Requires manufacturers, importers, distributing agents, dealers, and retail dealers to hold a current, valid permit in order to sell, distribute, or receive cigarettes. Authorizes certain law enforcement officials to inspect certain shipping vehicles. Requires manufacturers and importers to keep records of cigarettes received, sold, and delivered and to keep daily sales tickets of cigarette sales. Authorizes the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to examine records and equipment of any manufacturer or importer of cigarettes. Authorizes the state to claim certain property and materials from certain dealers and retailers who attempt to defraud the state. Prohibits issuance, maintenance, or renewal of certain permits for certain applicants. Authorizes the division to revoke a person's permit. Prohibits a person whose permit has been revoked from engaging in business. Prohibits a person whose permit has been revoked from renewing or obtaining a new permit for 2 years. Authorizes the division to impose a civil penalty, not to exceed \$25,000, in addition to revocation of a permit. Expands the group of violators subject to criminal liability. Prohibits the sale or possession for sale of counterfeit cigarettes. Provides civil penalties for failure to comply with certain duties or to pay certain taxes.