

By Senator Bennett

21-1458-06

1                                   A bill to be entitled  
2           An act relating to the transportation and sale  
3           of cigarettes; amending s. 210.01, F.S.;  
4           defining the term "brand family"; creating s.  
5           210.0205, F.S.; providing definitions; imposing  
6           a fee on certain cigarettes; providing payment  
7           requirements; requiring reporting of the number  
8           and denominations of stamps affixed to  
9           individual packages of certain cigarettes by  
10          manufacturer and brand family; authorizing  
11          rulemaking regarding such reports; requiring  
12          registration with the Division of Alcoholic  
13          Beverages and Tobacco of the Department of  
14          Business and Professional Regulation of  
15          nonsettling manufacturers of cigarettes;  
16          requiring development, maintenance, and  
17          publication by the division of a list of  
18          nonsettling manufacturers of cigarettes which  
19          have certified their compliance with the act;  
20          treating cigarettes of certain manufacturers  
21          that have not paid the fee imposed by this act  
22          or that have not complied with reporting  
23          requirements as cigarettes for which the tax  
24          imposed by s. 210.02, F.S., has not been paid;  
25          prohibiting the stamping of certain cigarettes  
26          for which the fee imposed by the act has not  
27          been paid in full or the nonsettling  
28          manufacturer of which has not complied with  
29          reporting requirements; delaying application of  
30          the fee to a subsequent participating  
31          manufacturer under certain circumstances;

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 | reenacting ss. 772.102(1)(a) and 895.02(1)(a),  
6 | F.S., relating to crimes constituting a  
7 | "criminal activity" and definitions as used in  
8 | the Florida RICO Act, to incorporate the  
9 | amendment to s. 210.18, F.S., in references  
10 | thereto; providing an appropriation and  
11 | authorizing positions; providing an  
12 | appropriation to the Department of Health;  
13 | providing purposes; amending s. 17.41, F.S.;  
14 | providing an additional source of revenue to  
15 | the Tobacco Settlement Trust Fund; authorizing  
16 | the Attorney General to demand from the  
17 | administrator of the Master Settlement  
18 | Agreement that the payments currently being  
19 | made to the 46 Master Settlement Agreement  
20 | states by tobacco companies be paid annually by  
21 | the administrator to this state or that the  
22 | affected companies pay this state directly and  
23 | receive a credit for the payments; providing  
24 | that the arrangement not violate any  
25 | contractual agreements that have been made with  
26 | this state and the affected companies;  
27 | requiring that a report on the status of these  
28 | activities be presented by the Attorney General  
29 | to the President of the Senate and the Speaker  
30 | of the House of Representatives by a specified  
31 | date; providing an effective date.

1  
2           WHEREAS, it is the intent of the Legislature to prevent  
3 nonsettling manufacturers from undermining the state's policy  
4 of reducing underage smoking by offering their cigarettes for  
5 sale substantially below the price of cigarettes of other  
6 manufacturers; to protect the tobacco settlement agreement and  
7 funding, which is reduced as a result of the growth of  
8 nonsettling-manufacturer cigarette sales, for programs funded  
9 in whole or in part by payments to the state under the tobacco  
10 settlement agreement and to recoup for the state  
11 settlement-payment revenue lost to the state as a result of  
12 nonsettling-manufacturer cigarette sales; to fund enforcement  
13 and administration of nonsettling-manufacturer legislation and  
14 the fee imposed in this act, including reasonable  
15 administrative costs incurred by wholesale dealers complying  
16 with any additional reporting requirements necessitated by  
17 this act; to collect payments that are currently being made to  
18 the 46 Master Settlement Agreement states by tobacco  
19 companies, which payments are calculated upon the sale of the  
20 companies' cigarettes in this state; and to fund such other  
21 purposes as the Legislature determines, NOW, THEREFORE,

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1. Subsection (23) is added to section 210.01,  
26 Florida Statutes, to read:

27           210.01 Definitions.--When used in this part the  
28 following words shall have the meaning herein indicated:

29           (23) "Brand family" means all styles of cigarettes  
30 sold under the same trademark and differentiated from one  
31 another by means of additional modifiers or descriptors,

1 including, but not limited to, "menthol," "lights," "kings,"  
2 and "100s," and includes any brand name used alone or in  
3 conjunction with any other word, trademark, logo, symbol,  
4 motto, selling message, recognizable pattern of colors, or any  
5 other indicia of product identification identical or similar  
6 to, or identifiable with, a previously known brand of  
7 cigarettes.

8 Section 2. Section 210.0205, Florida Statutes, is  
9 created to read:

10 210.0205 Nonsettling-manufacturer fee.--

11 (1) As used in this section, the term:

12 (a) "Consumer Price Index" means the Consumer Price  
13 Index for All Urban Consumers as published by the Bureau of  
14 Labor Statistics of the United States Department of Labor.

15 (b) "Manufacturer" means a person or entity holding a  
16 valid permit under 26 U.S.C. s. 5712 that manufactures,  
17 fabricates, or assembles cigarettes. The term includes an  
18 entity that is the first importer into the United States of  
19 cigarettes manufactured abroad.

20 (c) "Nonsettling manufacturer" means any tobacco  
21 product manufacturer that has not entered into the tobacco  
22 settlement agreement defined in s. 215.56005(1)(f), or the  
23 Attorneys General Settlement Agreement dated March 15, 1996,  
24 in the State of Florida, et al. v. American Tobacco Company,  
25 et al., Fifteenth Judicial Circuit, Case No. 95-1466.

26 (d) "Nonsettling-manufacturer cigarettes" means  
27 cigarettes manufactured by a nonsettling manufacturer, except  
28 when payments on such cigarettes are due to be made by a  
29 settling manufacturer pursuant to a tobacco settlement  
30 agreement described in paragraph (c).

31

1           (2) A fee, in addition to all other taxes or fees of  
2 every kind imposed by law, is imposed upon the sale, receipt,  
3 purchase, possession, consumption, handling, distribution, and  
4 use in this state of nonsettling-manufactuer cigarettes to the  
5 package of which an agent affixes a stamp or stamp insignia as  
6 required by law or which are sold or purchased in the state  
7 but are not required to bear a stamp or stamp insignia of this  
8 state. The fee is in the amount of 20 mills per cigarette in  
9 fiscal year 2006-2007. Beginning January 1, 2008, and on  
10 January 1 of each year thereafter, the division shall adjust  
11 the tax rate by the greater of 3 percent or the percentage  
12 change in the average of the Consumer Price Index issued by  
13 the United States Department of Labor for the most recent  
14 12-month period ending September 30 compared to the 12-month  
15 period ending September 30 of the prior year.

16           (3) The division shall collect the fee once each month  
17 from each nonsettling manufacturer based on information  
18 received pursuant to subsection (6). The division shall mail  
19 to each nonsettling manufacturer not later than the 15th day  
20 of each month a notice of the fee due from that manufacturer  
21 for sales of its cigarettes made in the preceding month. Each  
22 such nonsettling manufacturer shall ensure that the division  
23 has received payment of the fee in full no later than the last  
24 day of the month in which the notice was mailed. Except as  
25 otherwise provided in this section, proceeds from the fee  
26 shall be deposited into the Tobacco Settlement Clearing Trust  
27 Fund and the fee shall be imposed, collected, paid,  
28 administered, and enforced in the same manner as the tax on  
29 cigarettes imposed by s. 210.02.

30           (4) A nonsettling manufacturer selling cigarettes in  
31 this state on July 1, 2006, shall provide to the division the

1 information described in subsections (7) and (8) and pay the  
2 fee imposed by subsection (2), by August 1, 2006. If a  
3 nonsettling manufacturer is not selling cigarettes in this  
4 state on July 1, 2006, before commencing sales of cigarettes  
5 in this state, the nonsettling manufacturer shall prepay the  
6 fee imposed by subsection (2). The prepayment amount shall be  
7 a sum determined by multiplying by 20 mills in fiscal year  
8 2006-2007 the number of cigarettes the division reasonably  
9 projects that the nonsettling manufacturer will sell in this  
10 state in the first calendar month or \$50,000, whichever is  
11 more. The division may require a nonsettling manufacturer to  
12 provide any information reasonably necessary to determine the  
13 amount of the prepayment fee and, in the case of prepayment,  
14 shall establish procedures for providing reimbursement to  
15 nonsettling manufacturers if actual sales are less than sales  
16 projected by the division and for additional payment by  
17 nonsettling manufacturers if actual sales are greater than  
18 sales projected by the division. As used in this subsection,  
19 the term "cigarettes" refers only to nonsettling-manufacturer  
20 cigarettes.

21 (5) The purposes of the fee are to:  
22 (a) Prevent nonsettling manufacturers from undermining  
23 the state's policy of reducing underage smoking by offering  
24 cigarettes for sale substantially below the price of  
25 cigarettes of other manufacturers.  
26 (b)1. Protect the tobacco settlement agreement, as  
27 defined in s. 215.56005(1)(f), and funding, which is reduced  
28 as a result of the growth of nonsettling-manufacturer  
29 cigarette sales, for programs funded in whole or in part by  
30 payments to the state under the tobacco settlement agreement;  
31 and

1           2. Recoup for the state settlement-payment revenue  
2 lost to the state as a result of nonsettling-manufacturer  
3 cigarette sales.

4           (c) Fund enforcement and administration of  
5 nonsettling-manufacturer legislation and the fee imposed by  
6 this section, including reasonable administrative costs  
7 incurred by wholesale dealers complying with any additional  
8 reporting requirements necessitated by this section.

9           (d) Fund such other purposes as the Legislature  
10 determines; however, \$16 million of the proceeds received  
11 under this section shall be provided annually through  
12 quarterly disbursements to the Department of Health, for the  
13 purposes of implementing a statewide anti-smoking marketing,  
14 educational, and advertising campaign to reduce youth tobacco  
15 use. The Department of Health shall conduct surveillance and  
16 evaluations to measure program performance and improve  
17 implementation strategies. The Department of Health may  
18 contract for any of the activities specified in this section.

19           (6) Monthly reports shall be made to the division  
20 pursuant to s. 210.09(2) by each agent and wholesaler. Such  
21 reports must state the number and denominations of stamps or  
22 stamp insignia affixed to individual packages of  
23 nonsettling-manufacturer cigarettes and the number of  
24 individual packages of nonsettling-manufacturer cigarettes  
25 otherwise sold or purchased in this state or otherwise handled  
26 or distributed in this state for sale in another state,  
27 commonwealth, or territory of the United States, by  
28 manufacturer and brand family, sold for each place of business  
29 in the month preceding the month in which the report is made.  
30 The division may adopt rules requiring any agent, wholesaler,  
31 wholesale dealer, or nonsettling manufacturer to provide in

1 the monthly report any information necessary or appropriate to  
2 determining the fee due under subsection (2) or to enforcing  
3 this section.

4 (7) Before commencing sales of cigarettes in this  
5 state or, if selling cigarettes in this state on July 1, 2006,  
6 by August 1, 2006, a nonsettling manufacturer shall provide to  
7 the division, on a form prescribed by the division:

8 (a) The complete name, address, and telephone number  
9 of the nonsettling manufacturer.

10 (b) The date the nonsettling manufacturer began or  
11 intends to begin selling cigarettes in this state.

12 (c) The names of the brand families of the cigarettes  
13 the nonsettling manufacturer is selling or will sell in this  
14 state.

15 (d) A statement of the nonsettling manufacturer's  
16 intention to comply with the obligations imposed by this  
17 section.

18 (e) The name, address, telephone number, and signature  
19 of an officer of the nonsettling manufacturer attesting to all  
20 of the information described in this subsection.

21 (8) Each nonsettling manufacturer subject to the fee  
22 imposed by subsection (2) shall certify to the division on the  
23 first day of each month that the manufacturer is in compliance  
24 with this section and has paid in full the fee imposed by  
25 subsection (2). The division shall develop, maintain, and  
26 publish on its Internet website a directory listing all  
27 nonsettling manufacturers that have provided current,  
28 accurate, and complete certifications. The division shall  
29 provide a copy of the list to any person upon request.

30 (9) Cigarettes of a nonsettling manufacturer that has  
31 not paid a fee imposed by subsection (2), or that has not



1 complied with the reporting requirements of subsections (4),  
2 (6), (7), and (8), shall be treated as cigarettes for which  
3 the tax imposed by s. 210.02 has not been paid. A person may  
4 not affix to any package of nonsettling-manufacturer  
5 cigarettes the stamp required under s. 210.06, or otherwise  
6 purchase or sell such cigarettes, after such person receives  
7 notice from the division that the nonsettling manufacturer of  
8 such cigarettes has not paid in full the fee imposed by  
9 subsection (2) or if the nonsettling manufacturer is not  
10 listed on the division's directory described in subsection  
11 (8).

12 (10) The fee imposed by this section does not apply to  
13 a subsequent participating manufacturer, as defined in the  
14 master settlement agreement, until the effective date of a  
15 credit amendment to the master settlement agreement. For  
16 purposes of this subsection and s. 210.05(6)(c), the term  
17 "master settlement agreement" means the settlement agreement  
18 and related documents entered into in 1998 by 46 states and  
19 leading United States tobacco manufacturers. An amendment to  
20 the master settlement agreement shall be considered a credit  
21 amendment if it makes available to each subsequent  
22 participating manufacturer, other than any subsequent  
23 participating manufacturer that has an agreement as of July 1,  
24 2006, as described in the final sentence of this subsection,  
25 each year a credit against its payment obligations under the  
26 master settlement agreement which is equal to or greater than  
27 the product of the total number of individual cigarettes sold  
28 by a subsequent participating manufacturer in this state  
29 during the year in question multiplied by at least 73.2  
30 percent of the per-cigarette fee provided for in this section,  
31 and does not condition that credit on such subsequent

1 participating manufacturer forfeiting in whole or in part any  
2 other benefits or credits provided for in the master  
3 settlement agreement. This subsection does not apply to any  
4 subsequent participating manufacturer that, as of July 1,  
5 2006, already had an agreement with the settling states, as  
6 defined in the master settlement agreement, pursuant to which  
7 agreement the subsequent participating manufacturer has agreed  
8 to a different credit against its payment obligations under  
9 the master settlement agreement based on its cigarette sales  
10 in this state.

11 Section 3. Subsections (6) and (9) of section 210.18,  
12 Florida Statutes, are amended to read:

13 210.18 Penalties for tax evasion; reports by  
14 sheriffs.--

15 ~~(6)(a) Every person, firm, or corporation, other than~~  
16 ~~a licensee under the provisions of this part, who possesses,~~  
17 ~~removes, deposits, or conceals, or aids in the possessing,~~  
18 ~~removing, depositing, or concealing of, any unstamped~~  
19 ~~cigarettes not in excess of 50 cartons is guilty of a~~  
20 ~~misdemeanor of the second degree, punishable as provided in s.~~  
21 ~~775.082 or s. 775.083. In lieu of the penalties provided in~~  
22 ~~those sections, however, the person, firm, or corporation may~~  
23 ~~pay the tax plus a penalty equal to the amount of the tax~~  
24 ~~authorized under s. 210.02 on the unstamped cigarettes.~~

25 (a)(b) Every person, firm, or corporation, other than  
26 a licensee under the provisions of this part, who possesses,  
27 removes, deposits, or conceals, or aids in the possessing,  
28 removing, depositing, or concealing of, any unstamped  
29 cigarettes in excess of 50 cartons is presumed to have  
30 knowledge that they have not been taxed and commits is guilty  
31

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

3 ~~(b)(c)~~ This section does not apply to a person  
4 possessing not in excess of three cartons of such cigarettes  
5 purchased by such possessor outside the state in accordance  
6 with the laws of the place where purchased and brought into  
7 this state by such possessor. The burden of proof that such  
8 cigarettes were purchased outside the state and in accordance  
9 with the laws of the place where purchased shall in all cases  
10 be upon the possessor of such cigarettes.

11 (9) Notwithstanding any other provision of law, the  
12 sale or possession for sale of counterfeit cigarettes by any  
13 person or by a manufacturer, importer, distributing agent,  
14 wholesale dealer, or retail dealer shall result in the seizure  
15 of the product and related machinery by the division or any  
16 law enforcement agency and shall be punishable as follows:-

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

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

1           (b)1. A first violation with a total quantity of two  
2 or more cartons of cigarettes or the equivalent amount of  
3 other cigarettes shall be punishable by a fine not to exceed  
4 \$2,000 or five times the retail value of the cigarettes  
5 involved, whichever is greater, or imprisonment not to exceed  
6 5 years, or both.

7           2. A subsequent violation with a quantity of two  
8 cartons of cigarettes or more or the equivalent amount of  
9 other cigarettes shall be punishable by a fine not to exceed  
10 \$50,000 or five times the retail value of the cigarettes  
11 involved, whichever is greater, or imprisonment not to exceed  
12 5 years, or both, and shall also result in the revocation by  
13 the division of the permit of the manufacturer, importer,  
14 distributing agent, wholesale dealer, or retail dealer.

15  
16 For purposes of this subsection, any counterfeit cigarettes  
17 seized by the division shall be destroyed.

18           Section 4. 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 5. 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 443.071(4), relating to creation of a  
20 fictitious employer scheme to commit unemployment compensation  
21 fraud.

22           7. Section 465.0161, relating to distribution of  
23 medicinal drugs without a permit as an Internet pharmacy.

24           8. Sections 499.0051, 499.0052, 499.00535, 499.00545,  
25 and 499.0691, relating to crimes involving contraband and  
26 adulterated drugs.

27           9. Part IV of chapter 501, relating to telemarketing.

28           10. Chapter 517, relating to sale of securities and  
29 investor protection.

30           11. Section 550.235, s. 550.3551, or s. 550.3605,  
31 relating to dogracing and horseracing.

- 1           12. Chapter 550, relating to jai alai frontons.
- 2           13. Section 551.109, relating to slot machine gaming.
- 3           14. Chapter 552, relating to the manufacture,  
4 distribution, and use of explosives.
- 5           15. Chapter 560, relating to money transmitters, if  
6 the violation is punishable as a felony.
- 7           16. Chapter 562, relating to beverage law enforcement.
- 8           17. Section 624.401, relating to transacting insurance  
9 without a certificate of authority, s. 624.437(4)(c)1.,  
10 relating to operating an unauthorized multiple-employer  
11 welfare arrangement, or s. 626.902(1)(b), relating to  
12 representing or aiding an unauthorized insurer.
- 13           18. Section 655.50, relating to reports of currency  
14 transactions, when such violation is punishable as a felony.
- 15           19. Chapter 687, relating to interest and usurious  
16 practices.
- 17           20. Section 721.08, s. 721.09, or s. 721.13, relating  
18 to real estate timeshare plans.
- 19           21. Chapter 782, relating to homicide.
- 20           22. Chapter 784, relating to assault and battery.
- 21           23. Chapter 787, relating to kidnapping.
- 22           24. Chapter 790, relating to weapons and firearms.
- 23           25. Section 796.03, s. 796.035, s. 796.04, s. 796.045,  
24 s. 796.05, or s. 796.07, relating to prostitution and sex  
25 trafficking.
- 26           26. Chapter 806, relating to arson.
- 27           27. Section 810.02(2)(c), relating to specified  
28 burglary of a dwelling or structure.
- 29           28. Chapter 812, relating to theft, robbery, and  
30 related crimes.
- 31           29. Chapter 815, relating to computer-related crimes.



- 1           30. Chapter 817, relating to fraudulent practices,  
2 false pretenses, fraud generally, and credit card crimes.
- 3           31. Chapter 825, relating to abuse, neglect, or  
4 exploitation of an elderly person or disabled adult.
- 5           32. Section 827.071, relating to commercial sexual  
6 exploitation of children.
- 7           33. Chapter 831, relating to forgery and  
8 counterfeiting.
- 9           34. Chapter 832, relating to issuance of worthless  
10 checks and drafts.
- 11          35. Section 836.05, relating to extortion.
- 12          36. Chapter 837, relating to perjury.
- 13          37. Chapter 838, relating to bribery and misuse of  
14 public office.
- 15          38. Chapter 843, relating to obstruction of justice.
- 16          39. Section 847.011, s. 847.012, s. 847.013, s.  
17 847.06, or s. 847.07, relating to obscene literature and  
18 profanity.
- 19          40. Section 849.09, s. 849.14, s. 849.15, s. 849.23,  
20 or s. 849.25, relating to gambling.
- 21          41. Chapter 874, relating to criminal street gangs.
- 22          42. Chapter 893, relating to drug abuse prevention and  
23 control.
- 24          43. Chapter 896, relating to offenses related to  
25 financial transactions.
- 26          44. Sections 914.22 and 914.23, relating to tampering  
27 with a witness, victim, or informant, and retaliation against  
28 a witness, victim, or informant.
- 29          45. Sections 918.12 and 918.13, relating to tampering  
30 with jurors and evidence.
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1 (b) Any conduct defined as "racketeering activity"  
2 under 18 U.S.C. s. 1961(1).

3 Section 6. For the 2006-2007 fiscal year, the sum of  
4 \$480,028 is appropriated from the Alcoholic Beverage and  
5 Tobacco Trust Fund and four full-time equivalent positions are  
6 authorized to be established by the Department of Business and  
7 Professional Regulation for the purpose of conducting  
8 regulatory activities related to the transportation and sale  
9 of cigarettes.

10 Section 7. From the funds generated by this act, the  
11 sum of \$2 million is appropriated to the Department of Health  
12 to address health care disparities in the minority community.

13 Section 8. Subsection (2) of section 17.41, Florida  
14 Statutes, is amended to read:

15 17.41 Department of Financial Services Tobacco  
16 Settlement Clearing Trust Fund.--

17 (2) Funds to be credited to the Tobacco Settlement  
18 Clearing Trust Fund shall consist of payments received by the  
19 state from settlement of State of Florida v. American Tobacco  
20 Co., No. 95-1466AH (Fla. 15th Cir. Ct. 1996) and fees from the  
21 nonsettling-manufacturer fee collected pursuant to s.  
22 210.0205. Moneys received from the settlement and fees that  
23 are deposited into the trust fund are exempt from the service  
24 charges imposed under s. 215.20.

25 Section 9. The Attorney General may demand from the  
26 administrator of the Master Settlement Agreement that the  
27 payments currently being made to the 46 Master Settlement  
28 Agreement states by tobacco companies which are based, in  
29 part, upon the sale of cigarettes in this state be paid  
30 annually by the administrator of the Master Settlement  
31 Agreement to this state or that the affected companies pay

1 this state directly and receive a credit for the payments from  
2 the administrator. The Attorney General may negotiate with the  
3 administrator of the Master Settlement Agreement so as not to  
4 violate any contractual agreements that have been made with  
5 this state and the affected companies. A report concerning the  
6 status of these activities shall be presented by the Attorney  
7 General to the President of the Senate and the Speaker of the  
8 House of Representatives by January 1, 2007.

9 Section 10. This act shall take effect July 1, 2006.

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11 \*\*\*\*\*  
12 SENATE SUMMARY

13 Imposes fees on the sale, handling, etc. in this state of  
14 cigarettes of manufacturers not party to a described  
15 tobacco settlement agreement and provides procedures for  
16 implementing the collection of fees and for conducting  
17 related procedural activities. (See bill for details.)  
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