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1 A bill to be entitled

2 An act relating to the tax on tobacco products; amending
3 s. 210.25, F.S.; revising definitions; amending s. 210.30,
4 F.S.; providing a separate rate for taxing moist snuff;
5 amending s. 951.22, F.S.; conforming a cross-reference;
6 providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Section 210.25, Florida Statutes, is amended to
11 read:

12 210.25 Definitions.--As used in this part:

13 (1) "Business" means any trade, occupation, activity, or
14 enterprise engaged in for the purpose of selling or distributing
15 tobacco products in this state.

16 (2) "Consumer" means any person who has title to or
17 possession of tobacco products in storage for use or other
18 consumption in this state.

19 (3) "Division" means the Division of Alcoholic Beverages
20 and Tobacco of the Department of Business and Professional
21 Regulation.

22 (4) "Distributor" means:

23 (a) Any person engaged in the business of selling tobacco
24 products in this state who brings, or causes to be brought, into
25 this state from outside the state any tobacco products for sale;

26 (b) Any person who makes, manufactures, or fabricates
27 tobacco products in this state for sale in this state; or

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28 (c) Any person engaged in the business of selling tobacco
 29 outside this state who ships or transports tobacco products to
 30 retailers in this state to be sold by those retailers.

31 (5) "Manufacturer" means any person who manufactures and
 32 sells tobacco products.

33 (6) "Moist snuff" means any finely cut, ground, or
 34 powdered tobacco that is not intended to be smoked but does not
 35 include any finely cut, ground, or powdered tobacco that is
 36 intended to be placed in the nasal cavity.

37 (7)~~(6)~~ "Place of business" means any place where tobacco
 38 products are sold, manufactured, stored or kept for the purpose
 39 of sale or consumption, including any vessel, vehicle, airplane,
 40 train, or vending machine.

41 (8)~~(7)~~ "Retail outlet" means each place of business from
 42 which tobacco products are sold to consumers.

43 (9)~~(8)~~ "Retailer" means any person engaged in the business
 44 of selling tobacco products to ultimate consumers.

45 (10)~~(9)~~ "Sale" means any transfer, exchange, or barter for
 46 a consideration. The term "sale" includes a gift by a person
 47 engaged in the business of selling tobacco products for
 48 advertising or as a means of evading this part or for any other
 49 purpose.

50 (11)~~(10)~~ "Storage" means any keeping or retention of
 51 tobacco products for use or consumption in this state.

52 (12)~~(11)~~ "Tobacco products" means loose tobacco suitable
 53 for smoking; snuff; ~~snuff flour~~; cavendish; plug and twist
 54 tobacco; fine cuts and other chewing tobaccos; shorts; refuse
 55 scraps; clippings, cuttings, and sweepings of tobacco, and other

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56 kinds and forms of tobacco prepared in such manner as to be
 57 suitable for chewing; but "tobacco products" does not include
 58 cigarettes, as defined by s. 210.01(1), or cigars.

59 ~~(13)~~~~(12)~~ "Use" means the exercise of any right or power
 60 incidental to the ownership of tobacco products.

61 ~~(14)~~~~(13)~~ "Wholesale sales price" means the established
 62 price for which a manufacturer sells a tobacco product to a
 63 distributor, exclusive of any diminution by volume or other
 64 discounts.

65 Section 2. Section 210.30, Florida Statutes, is amended to
 66 read:

67 210.30 Tax on tobacco products; exemptions.--

68 (1) A tax is hereby imposed upon all tobacco products in
 69 this state and upon any person engaged in business as a
 70 distributor thereof at the following rates:

71 (a) On each can or package of moist snuff, at the rate of
 72 44 cents per ounce, plus a proportionate tax at the same rate on
 73 all fractional parts of an ounce, of moist snuff, provided that
 74 cans or packages of moist snuff with a net weight of less than
 75 1.2 ounces shall be taxed at the equivalent rate of cans or
 76 packages of moist snuff weighing 1.2 ounces. The tax shall be
 77 computed on the net weight as listed by the manufacturer.

78 (b) On all tobacco products other than moist snuff, at the
 79 rate of 25 percent of the wholesale sales price of such tobacco
 80 products.

81 (2) Such tax shall be imposed at the time the distributor:

82 (a) Brings or causes to be brought into this state from
 83 without the state tobacco products for sale;

84 (b) Makes, manufactures, or fabricates tobacco products in
 85 this state for sale in this state; or

86 (c) Ships or transports tobacco products to retailers in
 87 this state, to be sold by those retailers.

88 ~~(3)-(2)~~ A tax is hereby imposed upon the use or storage by
 89 consumers of tobacco products in this state and upon such
 90 consumers at the following rates:

91 (a) On each can or package of moist snuff, at the rate of
 92 44 cents per ounce, plus a proportionate tax at the same rate on
 93 all fractional parts of an ounce, of moist snuff, provided that
 94 cans or packages of moist snuff with a net weight of less than
 95 1.2 ounces shall be taxed at the equivalent rate of cans or
 96 packages of moist snuff weighing 1.2 ounces. The tax shall be
 97 computed on the net weight as listed by the manufacturer.

98 (b) On all tobacco products other than moist snuff, at the
 99 rate of 25 percent of the cost of such tobacco products.

100
 101 The tax imposed by this subsection shall not apply if the tax
 102 imposed by subsection (1) on such tobacco products has been
 103 paid. This tax shall not apply to the use or storage of tobacco
 104 products in quantities of less than 1 pound in the possession of
 105 any one consumer.

106 ~~(4)-(3)~~ Any tobacco product with respect to which a tax has
 107 once been imposed under this part shall not again be subject to
 108 tax under this part.

109 ~~(5)-(4)~~ No tax shall be imposed by this part upon tobacco
 110 products not within the taxing power of the state under the
 111 Commerce Clause of the United States Constitution.

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112 (6)~~(5)~~ The exemptions provided for cigarettes under s.
 113 210.04(4) shall also apply to tobacco products under this part.

114 Section 3. Subsection (1) of section 951.22, Florida
 115 Statutes, is amended to read:

116 951.22 County detention facilities; contraband articles.--

117 (1) It is unlawful, except through regular channels as
 118 duly authorized by the sheriff or officer in charge, to
 119 introduce into or possess upon the grounds of any county
 120 detention facility as defined in s. 951.23 or to give to or
 121 receive from any inmate of any such facility wherever said
 122 inmate is located at the time or to take or to attempt to take
 123 or send therefrom any of the following articles which are hereby
 124 declared to be contraband for the purposes of this act, to wit:
 125 Any written or recorded communication; any currency or coin; any
 126 article of food or clothing; any tobacco products as defined in
 127 s. 210.25(12)~~(11)~~; any cigarette as defined in s. 210.01(1); any
 128 cigar; any intoxicating beverage or beverage which causes or may
 129 cause an intoxicating effect; any narcotic, hypnotic, or
 130 excitative drug or drug of any kind or nature, including nasal
 131 inhalators, sleeping pills, barbiturates, and controlled
 132 substances as defined in s. 893.02(4); any firearm or any
 133 instrumentality customarily used or which is intended to be used
 134 as a dangerous weapon; and any instrumentality of any nature
 135 that may be or is intended to be used as an aid in effecting or
 136 attempting to effect an escape from a county facility.

137 Section 4. This act shall take effect July 1, 2007.