



527360

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/15/2008	.	
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	.	

1 The Committee on Health Policy (Joyner) recommended the following
 2 **amendment:**

Senate Amendment (with title amendment)

5 Delete everything after the enacting clause
6 and insert:

7 Section 1. The Legislature finds that cigarette consumption
 8 dramatically impacts the state's Medicaid budget and a
 9 substantial deficit has been created between what consumers pay
 10 in related excise or privilege fees and what the state actually
 11 incurs in health care costs. The Legislature further finds that
 12 the imposition of a user fee on cigarettes should at least be
 13 commensurate with the projected governmental costs associated
 14 with the consumption of cigarettes. The Legislature further finds
 15 that revenues derived from such user fees should apply to health
 16 care, with an emphasis given to measures for which there is a

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17 | connection between cigarette consumption and the user fee revenue
18 | generated from the consumption of cigarettes.

19 | Section 2. Section 210.01, Florida Statutes, is amended to
20 | read:

21 | 210.01 Definitions.--When used in this part the following
22 | words shall have the meaning herein indicated:

23 | (1) "Cigarette" means any roll for smoking, except one of
24 | which the tobacco is fully naturally fermented, without regard to
25 | the kind of tobacco or other substances used in the inner roll or
26 | the nature or composition of the material in which the roll is
27 | wrapped, which is made wholly or in part of tobacco irrespective
28 | of size or shape and whether such tobacco is flavored,
29 | adulterated or mixed with any other ingredient.

30 | (2) "Persons" means any individual, copartnership, society,
31 | club, association, corporation, joint stock company, and any
32 | combination of individuals and also an executor, administrator,
33 | receiver, trustee or other fiduciary.

34 | (3) "Sale" means any transfer, exchange or barter in any
35 | manner, or by any means whatever.

36 | (4) "Retail sale" or "sale at retail" means a sale to a
37 | consumer or to any person for any purpose other than resale.

38 | (5) "Dealer" means any wholesale dealer as hereinafter
39 | defined.

40 | (6) "Wholesale dealer" means any person located inside or
41 | outside this state who sells cigarettes to retail dealers or
42 | other persons for purposes of resale only. Such term shall not
43 | include any cigarette manufacturer, export warehouse proprietor,
44 | or importer with a valid permit under 26 U.S.C. s. 5712 if such
45 | person sells or distributes cigarettes in this state only to
46 | dealers who are agents and who hold valid and current permits

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47 | under s. 210.15 or to any cigarette manufacturer, export
48 | warehouse proprietor, or importer who holds a valid and current
49 | permit under 26 U.S.C. s. 5712.

50 | (7) "Retail dealer" means any person located inside or
51 | outside this state other than a wholesale dealer engaged in the
52 | business of selling cigarettes, including persons issued a permit
53 | pursuant to s. 569.003.

54 | (8) "Package" means the individual package, box or other
55 | container in or from which retail sales of cigarettes are
56 | normally made or intended to be made.

57 | (9) "Agent" means any person authorized by the Division of
58 | Alcoholic Beverages and Tobacco to purchase and affix adhesive or
59 | meter stamps under this part.

60 | (10) "Division" means the Division of Alcoholic Beverages
61 | and Tobacco of the Department of Business and Professional
62 | Regulation.

63 | (11) "Council" means the Biomedical Research Advisory
64 | Council within the Department of Health established in s.
65 | 215.5602.

66 | ~~(12)-(11)~~ "Use" means the consuming, giving away or
67 | disposing, in any manner, of cigarettes.

68 | ~~(13)-(12)~~ "First sale" means the first use or consumption of
69 | cigarettes within this state.

70 | ~~(14)-(13)~~ "Operating ad valorem millage" means all millages
71 | other than those fixed for debt service.

72 | (15) "Total collections" means the total amount
73 | derived from the cigarette user fee during a specified
74 | period of time.

75 | (16) "Net collections" means 99.1 percent of total
76 | collections less the service charge prescribed in s. 215.20.



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77 ~~(17)-(14)~~ "Distributing agent" means every person, firm or
78 corporation in this state who acts as an agent for any person,
79 firm or corporation outside or inside the state by receiving
80 cigarettes in interstate or intrastate commerce and storing such
81 cigarettes subject to distribution or delivery upon order from
82 said principal to wholesale dealers and other distributing agents
83 inside or outside this state.

84 ~~(18)-(15)~~ "Place of business" means any place where
85 cigarettes are sold or where cigarettes are stored or kept for
86 the purpose of sale or consumption; or if cigarettes are sold
87 from a vending machine the place in which the vending machine is
88 located.

89 ~~(19)-(16)~~ "Manufacturer's representative" means a person who
90 represents a manufacturer of cigarettes but who has no place of
91 business in this state where cigarettes are stored. A
92 manufacturer's representative is required to obtain any
93 cigarettes required by her or him through a wholesale dealer in
94 this state and to make such reports as may be required by the
95 Division of Alcoholic Beverages and Tobacco of the Department of
96 Business and Professional Regulation.

97 ~~(20)-(17)~~ "Exporter" means a person who transports user-fee-
98 exempt or tax-exempt cigarettes into this state under bond for
99 delivery beyond the borders of this state. Each permit shall
100 entitle the permittee to store such cigarettes under bond at one
101 location in this state pending shipment beyond the borders of
102 this state.

103 ~~(21)-(18)~~ "Unstamped package" or "unstamped cigarettes"
104 means a package on which the user fee ~~tax~~ required by this part
105 has not been paid, regardless of whether or not such package is
106 stamped or marked with the indicia of any other user fee

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107 assessment or taxing authority, or a package on which there has
108 been affixed a counterfeit or fraudulent indicium or stamp.

109 (22)-(19) "Stamp" or "stamps" means the indicia required to
110 be placed on cigarette packages that evidence payment of the user
111 fee tax on cigarettes under s. 210.02.

112 (23)-(20) "Importer" means any person with a valid permit
113 under 26 U.S.C. s. 5712 who imports into the United States,
114 directly or indirectly, a finished cigarette for sale or
115 distribution.

116 (24)-(21) "Manufacturer" means any domestic person or entity
117 with a valid permit under 26 U.S.C. s. 5712 that manufactures,
118 fabricates, assembles, processes, or labels a finished cigarette.

119 (25)-(22) "Counterfeit cigarettes" means cigarettes that
120 have false manufacturing labels, tobacco product packs with
121 counterfeit user fee tax stamps, or any combination thereof.

122 Section 3. Section 210.02, Florida Statutes, is amended to
123 read:

124 210.02 Cigarette user fee tax imposed; collection.--

125 (1) A user fee ~~An excise or privilege tax~~, in addition to
126 all other fees taxes of every kind imposed by law, is imposed
127 upon the sale, receipt, purchase, possession, consumption,
128 handling, distribution, and use of cigarettes in this state, in
129 the following amounts, except as hereinafter otherwise provided,
130 for cigarettes of standard dimensions:

131 (a) Upon all cigarettes weighing not more than 3 pounds per
132 thousand, 66.95 ~~16.95~~ mills on each cigarette.

133 (b) Upon all cigarettes weighing more than 3 pounds per
134 thousand and not more than 6 inches long, 133.9 ~~33.9~~ mills on
135 each cigarette.



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136 (c) Upon all cigarettes weighing more than 3 pounds per
137 thousand and more than 6 inches long, 267.8 ~~67.8~~ mills on each
138 cigarette.

139 (2) The description of cigarettes contained in paragraphs
140 (a), (b), and (c) of subsection (1) are hereby declared to be
141 standard as to dimensions for the taxing purposes of assessing a
142 user fee as provided in this law and should any cigarette be
143 received, purchased, possessed, sold, offered for sale, given
144 away, or used of a size other than of standard dimensions, the
145 same shall be assessed ~~taxed~~ at the rate of 5.69 ~~1.41~~ cents on
146 each such cigarette.

147 (3) When cigarettes as described in paragraph (1) (a) are
148 packed in varying quantities of 20 cigarettes or less, except
149 manufacturer's free samples authorized under s. 210.04(9), the
150 following rate shall govern:

151 (a) Packages containing 10 cigarettes or less require a
152 66.9-cent user fee ~~16.95-cent tax~~.

153 (b) Packages containing more than 10 but not more than 20
154 cigarettes require a 133.9-cent user fee ~~33.9-cent tax~~.

155 (4) When cigarettes as described in paragraph (1) (b) are
156 packed in varying quantities of 20 cigarettes or less, except
157 manufacturer's free samples authorized under s. 210.04(9), the
158 following rates shall govern:

159 (a) Packages containing 10 cigarettes or less require a
160 133.9-cent user fee ~~33.9-cent tax~~.

161 (b) Packages containing more than 10 but not more than 20
162 cigarettes require a 267.8-cent user fee ~~67.8-cent tax~~.

163 (5) When cigarettes as described in paragraph (1) (c) are
164 packed in varying quantities of 20 cigarettes or less, except

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165 manufacturer's free samples authorized under s. 210.04(9), the
166 following rates shall govern:

167 (a) Packages containing 10 cigarettes or less require a
168 267.8-cent user fee ~~67.8-cent tax~~.

169 (b) Packages containing more than 10 but not more than 20
170 cigarettes require a 535.6-cent user fee ~~135.6-cent tax~~.

171 (6) This user fee ~~tax~~ shall be paid by the dealer to the
172 division for deposit and distribution as hereinafter provided
173 upon the first sale or transaction within the state, whether or
174 not such sale or transfer be to the ultimate purchaser or
175 consumer. The seller or dealer shall collect the user fee ~~tax~~
176 from the purchaser or consumer, and the purchaser or consumer
177 shall pay the user fee ~~tax~~ to the seller. The seller or dealer
178 shall be responsible for the collection of the user fee ~~tax~~ and
179 the payment of the same to the division. All user fees collected
180 pursuant to this section ~~taxes~~ are due not later than the 10th
181 day of the month following the calendar month in which they were
182 incurred, and thereafter shall bear interest at the rate of 1
183 percent per month. If the amount of user fee proceeds ~~tax~~ due for
184 a given period is assessed without allocating it to any
185 particular month, the interest shall begin with the date of the
186 assessment. Whenever cigarettes are shipped from outside the
187 state to anyone other than a distributing agent or wholesale
188 dealer, the person receiving the cigarettes shall be responsible
189 for the user fee ~~tax~~ on said cigarettes and the payment of same
190 to the division.

191 (7) It is the legislative intent that the user fee ~~tax~~ on
192 cigarettes shall be uniform throughout the state.

193 Section 4. Section 210.021, Florida Statutes, is amended to
194 read:

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195 210.021 Payment of user fees ~~taxes~~ by certified check or
196 electronic funds transfer.--

197 (1) The Secretary of Business and Professional Regulation
198 may require a dealer who sells cigarettes within the state to
199 remit by certified check or electronic funds transfer any user
200 fee ~~tax~~ imposed under s. 210.02.

201 (2) The Secretary of Business and Professional Regulation
202 shall require for a period not to exceed 12 months that a dealer
203 or agent, during the dealer's or agent's initial period of
204 licensure or appointment, remit by certified check or electronic
205 funds transfer any user fee ~~tax~~ imposed under s. 210.02.

206 (3) The division shall adopt rules pursuant to ss.
207 120.536(1) and 120.54 to administer this section.

208 Section 5. Section 210.03, Florida Statutes, is amended to
209 read:

210 210.03 Prohibition against levying of cigarette user fees
211 ~~taxes~~ by municipalities.--No municipality shall, after July 1,
212 1972, levy or collect any user fee ~~excise tax~~ on cigarettes.

213 Section 6. Section 210.04, Florida Statutes, is amended to
214 read:

215 210.04 Construction; exemptions; collection.--

216 (1) The amount of user fees ~~taxes~~ advanced and paid to the
217 state aforesaid shall be added to and collected as a part of the
218 sales price of the cigarettes sold or distributed, which amount
219 may be stated separately from the price of the cigarettes on all
220 display signs, sales and delivery slips, bills and statements
221 which advertise or indicate the price of the product.

222 (2) The cigarette user fee ~~tax~~ imposed shall be collected
223 only once upon the same package or container of such cigarettes.



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224 (3) No user fee ~~tax~~ shall be imposed by this part upon
225 cigarettes not within the taxing power of the state under the
226 Commerce Clause of the United States Constitution.

227 (4) No user fee ~~tax~~ shall be required to be paid:

228 (a) Upon cigarettes sold at post exchanges, ship service
229 stores, ship stores, sloop chests, or base exchanges to members of
230 the Armed Services of the United States when such post exchanges,
231 ship service stores, or base exchanges are operated under
232 regulations of the Army, Navy, or Air Force of the United States
233 on military, naval, or air force reservations in this state or
234 when such ship stores or sloop chests are operated under the
235 regulations of the United States Navy on ships of the United
236 States Navy; however, it is unlawful for anyone, including
237 members of the Armed Services of the United States, to purchase
238 such user-fee-exempt or tax-exempt cigarettes for purposes of
239 resale. Any person who resells, or offers for resale, user-fee-
240 exempt or tax-exempt cigarettes purchased at post exchanges, ship
241 service stores, ship stores, sloop chests, or base exchanges is
242 guilty of a violation of the cigarette user fee ~~tax~~ law,
243 punishable as provided in s. 210.18(1).

244 (b) Upon the sale or gift of cigarettes by charitable
245 organizations to bona fide patients in regularly established
246 government veterans' hospitals in Florida for the personal use or
247 consumption of such patients.

248 (5) It shall be presumed that all cigarettes are subject to
249 the user fee ~~tax~~ imposed by this part until the contrary is
250 established, and the burden of proof that they are not assessable
251 ~~taxable~~ shall be upon the person having possession of them.

252 (6) The sale of single or loose unpacked cigarettes is
253 prohibited. The division may authorize any person to give away

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254 sample packages of cigarettes, each to contain not less than two
255 cigarettes upon which the user fees ~~taxes~~ have been paid.

256 (7) Nothing in this part shall be construed to prohibit the
257 sale of cigarettes, upon which the user fee ~~tax~~ has been
258 advanced, through the medium of vending machines where the user
259 fee ~~tax~~ is collected by the said vending machines.

260 (8) Except as hereinafter provided, all agents shall be
261 liable for the collection and payment of the user fee ~~tax~~ imposed
262 by this part and shall pay the user fee ~~tax~~ to the division by
263 purchasing, under such regulations as it shall prescribe,
264 adhesive stamps of such design and denominations as it shall
265 prescribe.

266 (9) Agents, located within or without the state, shall
267 purchase stamps and affix such stamps in the manner prescribed to
268 packages or containers of cigarettes to be sold, distributed, or
269 given away within the state, in which case any dealer
270 subsequently receiving such stamped packages of cigarettes will
271 not be required to purchase and affix stamps on such packages of
272 cigarettes. However, the division may, in its discretion,
273 authorize manufacturers to distribute in the state free sample
274 packages of cigarettes containing not less than 2 or more than 20
275 cigarettes without affixing any user fee ~~tax~~ stamps provided
276 copies of shipping invoices on such cigarettes are furnished, and
277 payment of all user fees ~~taxes~~ imposed on such cigarettes by law
278 is made, directly to the division not later than the 10th day of
279 each calendar month. The user fee ~~tax~~ on cigarettes in sample
280 packages shall be based on a unit in accordance with the
281 assessment ~~taxing~~ provisions of s. 210.02(1).

282 Section 7. Section 210.05, Florida Statutes, is amended to
283 read:

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284 | 210.05 Preparation and sale of stamps; discount.--

285 | (1) The user fee ~~tax~~ imposed by this part shall be paid by
286 | affixing stamps in the manner herein set forth or by affixing
287 | stamp insignia through the device of metering machines authorized
288 | in this part.

289 | (2) The division shall prescribe, prepare, and furnish
290 | stamps of such denominations and quantities as may be necessary
291 | for the payment of the user fee ~~tax~~ imposed by this part, and may
292 | from time to time and as often as it deems advisable provide for
293 | the issuance and exclusive use of stamps of a new design and
294 | forbid the use of stamps of any other design. However, all stamps
295 | prescribed by the division must be designed and furnished in a
296 | fashion that permits identification of the agent or wholesale
297 | dealer that affixed the stamp to the particular package of
298 | cigarettes by means of a serial number or other mark on the
299 | stamp. The division shall make provisions for the sale of such
300 | stamps at such places and at such time as it may deem necessary.

301 | (3) (a) The division may appoint dealers in cigarettes,
302 | manufacturers of cigarettes, within or without the state as agent
303 | to buy or affix stamps to be used in paying the user fee ~~tax~~
304 | herein imposed, but an agent shall at all times have the right to
305 | appoint a person in his or her employ who is to affix the stamps
306 | to any cigarettes under the agent's control; provided, however,
307 | that any wholesale dealer in the state shall have the right to
308 | buy and affix such stamps. Whenever the division shall sell and
309 | deliver to any such agent or wholesaler any such stamps, such
310 | agent or wholesaler shall be entitled to receive as compensation
311 | for his or her services and expenses as such agent or wholesaler
312 | in affixing and accounting for the user fees ~~taxes~~ represented by
313 | such stamps and to retain out of the moneys to be paid by the



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314 agent or wholesaler for such stamps a discount of 2 percent of
315 the par value of any amount of stamps purchased during any fiscal
316 year from July 1 through June 30 of the following year, provided
317 the discount shall be computed on the basis of 24 cents per pack.
318 No such discount shall be allowed to a dealer, vendor, or
319 distributor who sells or deals in any form of candy which
320 resembles drug paraphernalia. Stamping locations approved by the
321 division shall be responsible for computing the discount they
322 receive pursuant to this paragraph, and said computations shall
323 be retained by the stamping location for a period of 5 years and
324 shall be available to the division. All stamps purchased from the
325 division under this part shall be paid for in cash on delivery,
326 except as hereinafter provided.

327 (b) Each agent appointed by the division to affix stamps
328 shall be authorized to purchase stamps by furnishing an
329 irrevocable letter of credit or unconditional guaranty contract
330 or by executing bond with a solvent surety company qualified to
331 do business in this state, in an amount of 110 percent of the
332 agent's estimated user fee ~~tax~~ liability for 30 days, but not
333 less than \$2,000, conditioned upon said agent paying all user
334 fees ~~taxes~~ due the state arising hereunder. This form of payment
335 in lieu of cash on delivery or its equivalent shall not preclude
336 supplemental purchases for cash. Payment for each month's
337 liability shall be due on or before the 10th day of the month
338 following the month in which the stamps were sold. Default in the
339 aforesaid bonding and payment provisions by any agent may result
340 in the revocation of his or her privilege to purchase stamps
341 except for cash on delivery for a period up to 12 months in the
342 discretion of the division.



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343 (4) The division may in its discretion revoke the authority
344 of any agent failing to comply with the requirements of this part
345 or the rules and regulations promulgated hereunder and such agent
346 may in addition be punished in accordance with the provisions of
347 this part.

348 (5) Agents or wholesale dealers may sell stamped but
349 unassessed ~~untaxed~~ cigarettes to the Seminole Indian Tribe, or to
350 members thereof, for retail sale. Agents or wholesale dealers
351 shall treat such cigarettes and the sale thereof in the same
352 manner, with respect to reporting and stamping, as other sales
353 under this part, but agents or wholesale dealers shall not
354 collect from the purchaser the user fee ~~tax~~ imposed by s. 210.02.
355 The purchaser hereunder shall be responsible to the agent or
356 wholesale dealer for the services and expenses incurred in
357 affixing the stamps and accounting therefor.

358 Section 8. Section 210.06, Florida Statutes, is amended to
359 read:

360 210.06 Affixation of stamps; presumption.--

361 (1) Every dealer within the state shall affix or cause to
362 be affixed to such package or container of such cigarettes such
363 stamps as are required under this section within 10 days after
364 receipt of such products. Dealers outside this state shall affix
365 such stamps before the shipment of cigarettes into this state.

366 (a) A user fee ~~tax~~ stamp shall be applied to all cigarette
367 packages intended for sale or distribution to consumers subject
368 to the user fee ~~tax~~ imposed under s. 210.02, except as otherwise
369 provided in this part.

370 (b) No stamp shall be applied to any cigarette package
371 exempt from a user fee or tax under 26 U.S.C. s. 5704 that is
372 distributed by a manufacturer pursuant to federal regulations.



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373 (c) Dealers may apply stamps only to cigarette packages
374 received directly from a manufacturer or importer of cigarettes,
375 or a distributing agent representing a manufacturer or importer
376 of cigarettes, who possesses a valid and current permit under
377 this part.

378 (2) Each retail dealer shall open such box, carton or other
379 container of cigarettes prior to exposing for sale or selling
380 such cigarettes and examine the packages contained therein for
381 the purpose of ascertaining whether or not the said packages have
382 affixed thereto the proper user fee ~~tax~~ stamp. If unstamped or
383 improperly stamped packages of cigarettes are discovered, the
384 retail dealer shall immediately notify the dealer from whom said
385 cigarettes were purchased. Upon such notification, the dealer
386 from whom said cigarettes were purchased shall replace such
387 unstamped or improperly stamped packages of cigarettes with those
388 upon which stamps have been properly affixed, or immediately
389 affix thereto the proper amount of stamps.

390 (3) Whenever any cigarettes are found in the place of
391 business of any such retail dealer, or in the possession of any
392 other person without the stamps affixed, the presumption shall be
393 that such cigarettes are kept in violation of the provisions of
394 this law.

395 (4) Stamps shall be affixed to each package of cigarettes
396 of an aggregate denomination not less than the amount of the user
397 fee ~~tax~~ upon the contents therein, and shall be affixed in such
398 manner as to be visible to the purchaser. All stamps shall be
399 affixed in the manner prescribed by the division. The state may
400 not impose an additional charge on stamps for printing costs.

401 (5) Except as provided in s. 210.04(9) or s. 210.09(1), no
402 person, other than a dealer or distributing agent that receives

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403 unstamped cigarette packages directly from a cigarette
404 manufacturer or importer in accordance with this section and s.
405 210.085, shall hold or possess an unstamped cigarette package.
406 Dealers shall be permitted to set aside, without application of
407 stamps, only such part of the dealer's stock that is identified
408 for sale or distribution outside this state. If a dealer
409 maintains stocks of unstamped cigarette packages, such unstamped
410 packages shall be stored separately from stamped product
411 packages. No unstamped cigarette packages shall be transferred by
412 a dealer to another facility of the dealer within this state or
413 to another person within this state.

414 Section 9. Section 210.07, Florida Statutes, is amended to
415 read:

416 210.07 Metering machines.--

417 (1) (a) The user fee tax may also be paid through the use of
418 cigarette user fee tax stamp insignia to be applied by the use of
419 metering machines. The division shall prescribe and promulgate
420 appropriate rules and regulations governing the use of metering
421 machines, the procedure for the payment of such cigarette user
422 fees taxes through the use thereof, requiring adequate surety
423 bonds of the users thereof to assure the proper use of such
424 machines and payment of all cigarette user fees taxes that might
425 come due by the users thereof, and all other rules and
426 regulations necessary and proper to govern the use of same.

427 (b) The provisions of s. 210.05(3) (a) and (b) shall be
428 applicable to cigarette user fees taxes paid through the use of
429 metering machines.

430 (2) All provisions of this part governing the use of
431 cigarette user fee tax stamps, the compiling of records, the
432 making of reports, permits and revocation of permits, seizures



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433 and forfeitures, penalties, and all other provisions pertaining
434 to the payment of cigarette user fees ~~taxes~~ through the use of
435 stamps, shall likewise be applicable to the payment of said user
436 fees ~~taxes~~ through the use of metering machines.

437 (3) Wholesale or retail dealers of cigarettes owning,
438 leasing, furnishing, or operating cigarette vending machines
439 shall affix to each such machine, in a conspicuous place, an
440 identification sticker furnished by the division. Every sticker
441 shall show the vending machine serial number and the name and
442 address of the cigarette wholesale or retail dealer owning,
443 leasing, furnishing, or operating said vending machine.

444 (4) No vending machine shall be allowed to operate in the
445 state that does not have affixed thereto the identification
446 sticker required by this section nor shall any vending machine be
447 allowed to operate in the state that does not display at all
448 times at least one package of each brand of the packages located
449 therein so the same are clearly visible and arranged in such a
450 manner that the cigarette user fee ~~tax~~ stamps or meter
451 impressions of stamps affixed thereto are clearly visible. It
452 shall be the duty of any person, firm or corporation operating a
453 cigarette vending machine in this state to furnish the division
454 the location of the vending machine and to report within 30 days
455 to the division any change of location of the vending machine.

456 Section 10. Section 210.08, Florida Statutes, is amended to
457 read:

458 210.08 Bond for payment of user fees ~~taxes~~.--Each dealer,
459 agent, or distributing agent shall file with the division a
460 surety bond, certificate of deposit, or irrevocable letter of
461 credit acceptable to the division in an amount equal to 110

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462 percent of the estimated user fee ~~tax~~ liability for 30 days, but
463 not less than \$2,000.

464 Section 11. Subsections (2) and (3) of section 210.09,
465 Florida Statutes, are amended to read:

466 210.09 Records to be kept; reports to be made;
467 examination.--

468 (2) The division is authorized to prescribe and promulgate
469 by rules and regulations, which shall have the force and effect
470 of the law, such records to be kept and reports to be made to the
471 division by any manufacturer, importer, distributing agent,
472 wholesale dealer, retail dealer, common carrier, or any other
473 person handling, transporting or possessing cigarettes for sale
474 or distribution within the state as may be necessary to collect
475 and properly distribute the user fees ~~taxes~~ imposed by s. 210.02.
476 All reports shall be made on or before the 10th day of the month
477 following the month for which the report is made, unless the
478 division by rule or regulation shall prescribe that reports be
479 made more often.

480 (3) All manufacturers, importers, distributing agents,
481 wholesale dealers, agents, or retail dealers shall maintain and
482 keep for a period of 3 years at the place of business where any
483 transaction takes place, such records of cigarettes received,
484 sold, or delivered within the state as may be required by the
485 division. The division or its duly authorized representative is
486 hereby authorized to examine the books, papers, invoices, and
487 other records, the stock of cigarettes in and upon any premises
488 where the same are placed, stored, and sold, and the equipment of
489 any such manufacturers, importers, distributing agents, wholesale
490 dealers, agents, or retail dealers, pertaining to the sale and
491 delivery of cigarettes assessable ~~taxable~~ under this part. To

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492 | verify the accuracy of the user fee ~~tax~~ imposed and assessed by
493 | this part, each person is hereby directed and required to give to
494 | the division or its duly authorized representatives the means,
495 | facilities, and opportunity for such examinations as are herein
496 | provided for and required.

497 | Section 12. Section 210.11, Florida Statutes, is amended to
498 | read:

499 | 210.11 Refunds; sales of stamps and payment of user fee
500 | ~~tax~~.--Whenever any cigarettes upon which stamps have been placed,
501 | or upon which the user fee ~~tax~~ has been paid by metering machine,
502 | have been sold and shipped into another state for sale or use
503 | therein, or have become unfit for use and consumption or
504 | unsalable, or have been destroyed, the dealer involved shall be
505 | entitled to a refund or credit of the actual amount of the user
506 | fee ~~tax~~ paid with respect to such cigarettes less any discount
507 | allowed by the division in the sale of the stamps or payment of
508 | the user fee ~~tax~~ by metering machine, upon receipt of
509 | satisfactory evidence of the dealer's right to receive such
510 | refund or credit, provided application for refund or credit is
511 | made within 9 months of the date the cigarettes were shipped out
512 | of the state, became unfit, or were destroyed. Only the division
513 | shall sell, or offer for sale, any stamp or stamps issued under
514 | this part. The division may redeem unused stamps lawfully in the
515 | possession of any person. The division may prescribe necessary
516 | rules and regulations concerning refunds, credits, sales of
517 | stamps, and redemptions under the provisions of this part.
518 | Appropriation is hereby made out of revenues collected under this
519 | part for payment of such allowances.

520 | Section 13. Section 210.13, Florida Statutes, is amended to
521 | read:

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522 210.13 Determination of user fee ~~tax~~ on failure to file a
523 return.--If a dealer fails to file any return required under this
524 part, or having filed an incorrect or insufficient return, fails
525 to file a correct or sufficient return, as the case may require,
526 within 10 days after the giving of notice to the dealer by the
527 Division of Alcoholic Beverages and Tobacco that such return or
528 corrected or sufficient return is required, the division shall
529 determine the amount of user fee ~~tax~~ due by such dealer any time
530 within 3 years after the making of the earliest sale included in
531 such determination and give written notice of such determination
532 to such dealer. Such a determination shall finally and
533 irrevocably fix the user fee ~~tax~~ unless the dealer against whom
534 it is assessed shall, within 30 days after the giving of notice
535 of such determination, apply to the division for a hearing.
536 Judicial review shall not be granted unless the amount of the
537 user fee ~~tax~~ stated in the decision, with penalties thereon, if
538 any, shall have been first deposited with the division, and an
539 undertaking or bond filed in the court in which such cause may be
540 pending in such amount and with such sureties as the court shall
541 approve, conditioned that if such proceeding be dismissed or the
542 decision of the division confirmed, the applicant for review will
543 pay all costs and charges which may accrue against the applicant
544 in the prosecution of the proceeding. At the option of the
545 applicant, such undertaking or bond may be in an additional sum
546 sufficient to cover the user fees ~~tax~~, penalties, costs, and
547 charges aforesaid, in which event the applicant shall not be
548 required to pay such user fees ~~tax~~ and penalties precedent to the
549 granting of such review by such court.

550 Section 14. Section 210.14, Florida Statutes, is amended to
551 read:



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552 210.14 Warrant for collection of user fees ~~taxes~~.--

553 (1) In addition to all other remedies for the collection of
554 any user fees ~~taxes~~ due under the provisions of this part, the
555 division may issue a warrant under its official seal, which
556 warrant may be filed by the division in the office of the clerk
557 of the circuit court of any county where the delinquent person
558 ~~taxpayer~~ owns property. Upon presentation of the warrant, the
559 clerk of the circuit court shall enter it in the judgment docket.
560 The name of the person mentioned in the warrant, the amount of
561 the user fee ~~tax~~ and penalties for which the warrant was issued,
562 and the date such copy was filed shall be included in the record
563 of the warrant. The clerk shall be allowed the same fees as are
564 allowed by law for similar services rendered in judgment
565 execution proceedings. The warrant issued by the division may
566 then be directed to the sheriff of any county commanding that
567 sheriff to levy upon and sell the goods and chattels of the
568 specified delinquent person found within the sheriff's
569 jurisdiction, for the payment of the amount of such delinquency
570 plus a penalty equal to 50 percent of the amount thereof, and
571 interest on the total at 1 percent per month and the cost of
572 executing the warrant, and to return such warrant to the division
573 and to pay it the money collected by virtue thereof within 60
574 days after receipt of such warrant.

575 (2) The amount of the warrant docketed pursuant to
576 subsection (1) shall become a lien upon the title to or the
577 interest in real or personal property of the person against whom
578 the warrant is issued. The sheriff to whom any such warrant is
579 directed shall proceed upon the warrant in all respects and with
580 like effect and in the same manner as prescribed by law in
581 respect to executions issued against goods and chattels upon

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582 judgments by a court of record, and the sheriff shall be entitled
583 to the same fees for his or her services in executing the warrant
584 to be collected in the same manner.

585 (3) In the discretion of the division, a warrant of like
586 terms, force, and effect may be issued and directed to any
587 officer or employee of the division; and in the execution thereof
588 such officer or employee shall have all the power conferred by
589 law upon sheriffs, but shall be entitled to no fee or
590 compensation in excess of the actual expenses paid in the
591 performance of such duty. If a warrant is returned not satisfied
592 in full, the division may from time to time issue new warrants
593 and shall also have the same remedies to enforce the amount due
594 thereunder as if the state had recovered judgment therefor and
595 execution thereon had been returned satisfied.

596 Section 15. Paragraphs (c) and (h) of subsection (1), and
597 subsection (2) of section 210.15, Florida Statutes, are amended
598 to read:

599 210.15 Permits.--

600 (1)

601 (c) No permit under this part or chapter 569 shall be
602 issued, maintained, or renewed if the applicant, its officers, or
603 any person or persons owning directly or indirectly, in the
604 aggregate, more than 10 percent of the ownership interests in the
605 applicant:

606 1. Has been finally adjudicated as owing \$500 or more in
607 delinquent cigarette user fees ~~taxes~~;

608 2. Had a permit revoked by the division within the previous
609 2 years;



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610 3. Has been convicted of selling stolen or counterfeit
611 cigarettes, receiving stolen cigarettes, or being involved in the
612 counterfeiting of cigarettes;

613 4. Has been convicted within the past 5 years of any
614 offense against the cigarette laws of this state or convicted in
615 this state, any other state, or the United States during the past
616 5 years of any offense designated as a felony by such state or
617 the United States, or to a corporation, any of whose officers
618 have been so convicted. The term "convicted" shall include an
619 adjudication of guilt on a plea of guilty or a plea of nolo
620 contendere, or the forfeiture of a bond when charged with a
621 crime;

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

624 6. Has imported, or caused to be imported, into the United
625 States, or manufactured for sale or distribution in the United
626 States, any cigarette that does not fully comply with the Federal
627 Cigarette Labeling and Advertising Act (15 U.S.C. ss. 1331 et
628 seq.).

629 (h) No retail sales of cigarettes may be made at a location
630 for which a wholesale dealer, distributing agent, or exporter
631 permit has been issued. The user fee ~~excise tax~~ on sales made to
632 any traveling location, such as an itinerant store or industrial
633 caterer, shall be paid into the General Revenue Fund unallocated.
634 Cigarettes may be purchased for retail purposes only from a
635 person holding a wholesale dealer permit. The invoice for the
636 purchase of cigarettes must show the place of business for which
637 the purchase is made and the cigarettes cannot be transferred to
638 any other place of business for the purpose of resale.



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639 (2) The division may not furnish stamps or approve the use
640 of meter machines to evidence the payment of the user fees ~~taxes~~
641 on cigarettes except to qualified wholesale dealers.

642 Section 16. Section 210.18, Florida Statutes, is amended to
643 read:

644 210.18 Penalties for user fee ~~tax~~ evasion; reports by
645 sheriffs.--

646 (1) Any person who possesses or transports any unstamped
647 packages of cigarettes upon the public highways, roads, or
648 streets in the state for the purpose of sale; or who sells or
649 offers for sale unstamped packages of cigarettes in violation of
650 the provisions of this part; or who willfully attempts in any
651 manner to evade or defeat any user fee ~~tax~~ imposed by this part,
652 or the payment thereof, is guilty of a misdemeanor of the first
653 degree, punishable as provided in s. 775.082 or s. 775.083. Any
654 person who has been convicted of a violation of any provision of
655 the cigarette user fee ~~tax~~ law and who is thereafter convicted of
656 a further violation of the cigarette user fee ~~tax~~ law is, upon
657 conviction of such further offense, guilty of a felony of the
658 third degree, punishable as provided in s. 775.082, s. 775.083,
659 or s. 775.084.

660 (2) Except as otherwise provided in this section, any
661 person who fails, neglects, or refuses to comply with, or
662 violates the provisions of, this part or the rules adopted by the
663 division under this part commits a misdemeanor of the first
664 degree, punishable as provided in s. 775.082 or s. 775.083. Any
665 person who has been convicted of a violation of any provision of
666 the cigarette user fee ~~tax~~ law and who is thereafter convicted of
667 a further violation of the cigarette user fee ~~tax~~ law is, upon
668 conviction of such further offense, guilty of a felony of the



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669 third degree, punishable as provided in s. 775.082, s. 775.083,
670 or s. 775.084.

671 (3) Any person who falsely or fraudulently makes, forges,
672 alters, or counterfeits any stamp or impression die used in meter
673 machines prescribed by the division under the provisions of this
674 part; or, with intent to evade user fees ~~taxes~~, jams, tampers
675 with, or alters such a machine; or causes or procures to be
676 falsely or fraudulently made, forged, altered, or counterfeited
677 any such stamp or die; or knowingly and willfully utters,
678 purchases, passes or tenders as true any such false, altered, or
679 counterfeited stamp or die impression; or, with the intent to
680 defraud the state, fails to comply with any other requirement of
681 this part commits a felony of the third degree, punishable as
682 provided in s. 775.082, s. 775.083, or s. 775.084.

683 (4) (a) Any person or corporation that owns or is in
684 possession of any cigarettes upon which a user fee ~~tax~~ is imposed
685 by the cigarette law, or would be imposed if such cigarettes were
686 manufactured in or brought into this state in accordance with the
687 regulatory provisions of the cigarette law, and upon which such
688 user fee ~~tax~~ has not been paid is, in addition to the fines and
689 penalties otherwise provided in the cigarette law, personally
690 liable for the amount of the user fee ~~tax~~ imposed on such
691 cigarettes; and the division may collect such user fee ~~tax~~ from
692 such person or corporation by suit or by restitution if the
693 person ~~taxpayer~~ is convicted, found guilty, or pleads nolo
694 contendere or guilty to any crime under this chapter. This
695 paragraph is applicable even if adjudication is withheld.

696 (b) This subsection does not apply to a manufacturer or
697 distributor licensed under the cigarette law, to a state bonded
698 warehouse, or to a person possessing not in excess of three



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699 cartons of such cigarettes, which cigarettes were purchased by
700 such possessor outside the state in accordance with the laws of
701 the place where purchased and brought into this state by such
702 possessor. The burden of proof that such cigarettes were
703 purchased outside the state and in accordance with the laws of
704 the place where purchased shall in all cases be upon the
705 possessor of such cigarettes.

706 (5) (a) All cigarettes on which user fees ~~taxes~~ are imposed
707 by the cigarette law, or would be imposed if such cigarettes were
708 manufactured in or brought into this state in accordance with the
709 regulatory provisions of such law, which are found in the
710 possession or custody or within the control of any person for the
711 purpose of being sold or removed by him or her in fraud of the
712 cigarette law or with design to evade payment of such user fees
713 ~~taxes~~ may be seized by the division or any supervisor, sheriff,
714 deputy sheriff, or other law enforcement agent and shall be
715 forfeited to the state.

716 (b) This subsection does not apply to a person possessing
717 not in excess of three cartons of cigarettes, which cigarettes
718 were purchased by such possessor outside the state in accordance
719 with the laws of the place where purchased and brought into this
720 state by such possessor.

721 (6) (a) Every person, firm, or corporation, other than a
722 licensee under the provisions of this part, who possesses,
723 removes, deposits, or conceals, or aids in the possessing,
724 removing, depositing, or concealing of, any unstamped cigarettes
725 not in excess of 50 cartons is guilty of a misdemeanor of the
726 second degree, punishable as provided in s. 775.082 or s.
727 775.083. In lieu of the penalties provided in those sections,
728 however, the person, firm, or corporation may pay the user fee



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729 ~~tax~~ plus a penalty equal to the amount of the user fee tax
730 authorized under s. 210.02 on the unstamped cigarettes.

731 (b) Every person, firm, or corporation, other than a
732 licensee under the provisions of this part, who possesses,
733 removes, deposits, or conceals, or aids in the possessing,
734 removing, depositing, or concealing of, any unstamped cigarettes
735 in excess of 50 cartons is presumed to have knowledge that they
736 have not been assessed the user fee ~~taxed~~ and is guilty of a
737 felony of the third degree, punishable as provided in s. 775.082,
738 s. 775.083, or s. 775.084.

739 (c) This section does not apply to a person possessing not
740 in excess of three cartons of such cigarettes purchased by such
741 possessor outside the state in accordance with the laws of the
742 place where purchased and brought into this state by such
743 possessor. The burden of proof that such cigarettes were
744 purchased outside the state and in accordance with the laws of
745 the place where purchased shall in all cases be upon the
746 possessor of such cigarettes.

747 (7) Any sheriff, deputy sheriff, police officer, or state
748 law enforcement officer, upon the seizure of any unstamped
749 cigarettes under this section, shall promptly report such seizure
750 to the division or its representative, together with a
751 description of all such unstamped cigarettes seized, so that the
752 state may be kept informed as to the size and magnitude of the
753 illicit cigarette business. The division shall keep records
754 showing the number of seizures and seized cigarettes reported to,
755 or seized by, the division.

756 (8) (a) It is unlawful for any person to conspire with any
757 other person or persons to do any act in violation of the



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758 provisions of this part, when any one or more of such persons
759 does or commits any act to effect the object of the conspiracy.

760 (b) Any person who violates the provisions of this
761 subsection:

762 1. If the act conspired to be done would constitute a
763 misdemeanor, is guilty of a misdemeanor of the second degree,
764 punishable as provided in s. 775.082 or s. 775.083.

765 2. If the act conspired to be done would constitute a
766 felony, is guilty of a felony of the third degree, punishable as
767 provided in s. 775.082, s. 775.083, or s. 775.084.

768 (9) Notwithstanding any other provision of law, the sale or
769 possession for sale of counterfeit cigarettes by any person or by
770 a manufacturer, importer, distributing agent, wholesale dealer,
771 or retail dealer shall result in the seizure of the product and
772 related machinery by the division or any law enforcement agency.

773 (10) It is unlawful to sell or possess with the intent to
774 sell counterfeit cigarettes, as defined in s. 210.01(22).

775 (a) A person who does not hold a permit or holds a retail
776 permit under the provisions of this chapter and who violates this
777 subsection commits a felony of the third degree, punishable as
778 provided in s. 775.082, s. 775.083, or s. 775.084, and is subject
779 to the imposition of fines and additional penalties as follows:

780 1. If the quantity of counterfeit cigarettes sold or
781 possessed with the intent to sell is less than two cartons or the
782 equivalent, the fine for a first violation shall not exceed
783 \$1,000 or five times the retail value of the counterfeit
784 cigarettes, whichever is greater. A subsequent violation may
785 result in the imposition of a fine not to exceed \$5,000 or five
786 times the retail value of the counterfeit cigarettes, whichever

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787 | is greater, and shall result in revocation of the retail permit
788 | by the division.

789 | 2. If the quantity of counterfeit cigarettes sold or
790 | possessed with the intent to sell is two cartons or more or the
791 | equivalent, the fine for a first violation shall not exceed
792 | \$2,000 or five times the retail value of the counterfeit
793 | cigarettes, whichever is greater. A subsequent violation may
794 | result in the imposition of a fine not to exceed \$50,000 or five
795 | times the retail value of the counterfeit cigarettes, whichever
796 | is greater, and shall result in revocation of the retail permit
797 | by the division.

798 | (b) A person who holds a permit, other than a retail
799 | permit, under the provisions of this chapter and who violates
800 | this subsection commits a felony of the third degree, punishable
801 | as provided in s. 775.082, s. 775.083, or s. 775.084, and is
802 | subject to the imposition of fines and additional penalties as
803 | follows:

804 | 1. If the quantity of counterfeit cigarettes sold or
805 | possessed with the intent to sell is less than 10 cartons or the
806 | equivalent, the fine for a first violation shall not exceed
807 | \$1,000 or five times the retail value of the counterfeit
808 | cigarettes, whichever is greater. A subsequent violation may
809 | result in the imposition of a fine not to exceed \$5,000 or five
810 | times the retail value of the counterfeit cigarettes, whichever
811 | is greater, and shall result in revocation of the permit by the
812 | division.

813 | 2. If the quantity of counterfeit cigarettes sold or
814 | possessed with the intent to sell is 10 cartons or more or the
815 | equivalent, the fine for a first violation shall not exceed
816 | \$2,000 or five times the retail value of the counterfeit

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817 cigarettes, whichever is greater. A subsequent violation may
818 result in the imposition of a fine not to exceed \$50,000 or five
819 times the retail value of the counterfeit cigarettes, whichever
820 is greater, and shall result in revocation of the permit by the
821 division.

822

823 For purposes of this subsection, any counterfeit cigarettes
824 seized by the division shall be destroyed.

825 Section 17. Subsection (2) of section 210.181, Florida
826 Statutes, is amended to read:

827 210.181 Civil penalties.--

828 (2) Whoever fails to pay any user fee ~~tax~~ imposed by this
829 part at the time prescribed by law or rules shall, in addition to
830 any other penalty provided in this part, be liable for a penalty
831 of five times the unpaid user fees ~~tax~~ due.

832 Section 18. Subsection (2) and paragraph (c) of subsection
833 (6) of section 210.185, Florida Statutes, are amended to read:

834 210.185 Prohibition on sale or distribution of cigarettes;
835 criminal penalties; administrative sanctions; applicability.--

836 (2) DOCUMENTATION.--On or before the 10th day of each
837 month, each person permitted to affix the user fee ~~tax~~ stamp to
838 cigarettes shall file with the division, for all cigarettes
839 imported into the United States to which the person has affixed
840 the user fee ~~tax~~ stamp in the preceding month, a copy of the
841 permit issued under the Internal Revenue Code, 26 U.S.C. s. 5713,
842 to the person importing the cigarettes into the United States
843 which allows that person to import those cigarettes; a copy of
844 the customs form containing, with respect to the cigarettes, the
845 internal revenue tax information required by the United States
846 Bureau of Alcohol, Tobacco and Firearms; and a statement, signed



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847 | by an officer of the manufacturer or importer under penalty of
848 | perjury, certifying that the manufacturer or importer has
849 | complied with the package health warning and ingredient reporting
850 | requirements of the Federal Cigarette Labeling and Advertising
851 | Act, 15 U.S.C. ss. 1333 and 1335a, with respect to those
852 | cigarettes.

853 | (6) GENERAL PROVISIONS.--

854 | (c) In addition to any other remedy provided by law,
855 | including enforcement as provided in paragraph (a), any person
856 | may bring an action for appropriate injunctive or other equitable
857 | relief for a violation of this section; for actual damages, if
858 | any, sustained by reason of the violation; and, as determined by
859 | the court, for interest on the damages from the date of the
860 | complaint, assessable ~~taxable~~ costs, and reasonable attorney's
861 | fees. If the trier of fact finds that the violation is flagrant,
862 | it may increase recovery to an amount not in excess of 3 times
863 | the actual damages sustained by reason of the violation.

864 | Section 19. Section 210.19, Florida Statutes, is amended to
865 | read:

866 | 210.19 Records to be kept by division.--The division shall
867 | keep records showing the total amount of user fees ~~taxes~~
868 | collected, which records shall be open to the public during the
869 | regular office hours of the division. The division shall maintain
870 | records that identify which agent or wholesale dealer affixed the
871 | user fee ~~tax~~ stamp to each package of cigarettes. The identifying
872 | records must be made available for public inspection and retained
873 | for at least 3 years.

874 | Section 20. Subsection (2) of section 210.20, Florida
875 | Statutes, is amended to read:



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876 210.20 Employees and assistants; distribution of funds.--

877 (2) (a) For purposes of this subsection, the term:

878 1. "Agency" means the Agency for Health Care
879 Administration.

880 2. "Cigarette user fee" means the user fee imposed by s.
881 210.02.

882 3. "Council" means the Biomedical Research Advisory Council
883 within the Department of Health as established in s. 215.5602.

884 4. "Reference year" means July 1, 2007, to June 30, 2008.

885 5. "Total collections" means the total amount derived from
886 the cigarette user fee during a specified period of time.

887 6. "Net collections" means 99.1 percent of the total
888 collections less the service charges provided for in s. 215.20.

889 7. "Reference year allocation" means the total amount
890 credited or transferred from the Cigarette Tax Collection Trust
891 Fund to a particular trust fund or the General Revenue Fund
892 during the reference year divided by 12.

893 8. "Total base allocation" means, for a given month, 8.333
894 percent of the average of the projected net collections for the
895 fiscal year containing such month, based on the most recent
896 estimates generated by a Revenue Estimating Conference convened
897 pursuant to s. 216.136(3), or net collections for such month,
898 whichever is less.

899 (b) As collections are received by the division from the
900 user fee on cigarettes ~~such cigarette taxes~~, it shall pay the
901 same into a trust fund in the State Treasury designated
902 "Cigarette Tax Collection Trust Fund." ~~which shall be paid and~~
903 ~~distributed as follows:~~

904 (c) ~~(a)~~ The division shall from month to month certify to
905 the Chief Financial Officer the amount of net collections derived

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906 from the cigarette user fee tax imposed by s. 210.02, ~~less the~~
907 ~~service charges provided for in s. 215.20 and less 0.9 percent of~~
908 ~~the amount derived from the cigarette tax imposed by s. 210.02,~~
909 ~~which shall be deposited into the Alcoholic Beverage and Tobacco~~
910 ~~Trust Fund,~~ specifying the amounts to be transferred from the
911 Cigarette Tax Collection Trust Fund and credited on the following
912 bases; however, the division shall first deposit monthly into the
913 Alcoholic Beverage and Tobacco Trust Fund an amount equal to the
914 sum of 0.9 percent of total collections and the service charge on
915 total collection provided for in s. 215.20 as follows:

916 1. The sum of 0.8345 percent basis of 2.9 percent of the
917 total base allocation net collections to the Revenue Sharing
918 Trust Fund for Counties for distribution pursuant to the Florida
919 Revenue Sharing Act.

920 2. The sum of 8.5857 percent and 29.3 percent of the total
921 base allocation to the Public Medical Assistance Trust Fund net
922 collections for the funding of indigent health care pursuant to
923 s. 409.918 to the Public Medical Assistance Trust Fund.

924 3. The sum of 7.737 percent of the total base allocation to
925 the Public Medical Assistance trust Fund specifically to
926 contribute to the state share of funding for the low-income pool.

927 4. The sum of 4.06 percent of the total base allocation to
928 the H. Lee Moffitt Cancer Center and Research Institute
929 established in s. 1004.43, which shall be paid on a monthly basis
930 to the center's Board of Directors by warrant drawn by the Chief
931 Financial Officer upon the State Treasury. The revenues derived
932 from this allocation are separate and distinct from any funds
933 allocated to the H. Lee Moffitt Cancer Center through the James
934 and Esther King Biomedical Research Program or the Bankhead-Coley
935 Cancer Research Program. Funds derived pursuant this subparagraph



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936 are to be used for the purpose of constructing, furnishing, and
937 equipping cancer research, treatment, and related facilities. The
938 appropriation to the H. Lee Moffitt Cancer Center and Research
939 Institute authorized by this subparagraph shall not be less than
940 the amount that would have been paid to the H. Lee Moffitt and
941 Cancer Research Institute for fiscal year 2006-2007 had this
942 subparagraph been in effect.

943 5. The sum of 6.01 percent of the total base allocation to
944 the Biomedical Research Trust Fund for distribution by the
945 Biomedical Research Advisory Council to grantees of the James and
946 Esther King Biomedical Research Program authorized pursuant to s.
947 215.5602 and the Bankhead-Coley Cancer Research Program
948 authorized pursuant to s. 381.922, with such programs dividing
949 equally the allocation derived from this subparagraph. The
950 provisions of ss. 215.5602 and 381.922 shall determine the
951 methods of distribution under the respective programs.

952 6. The sum of 15.13 percent of the total base allocation to
953 the Medical Care Trust Fund for the funding of the Medically
954 Needy program established pursuant to 42 U.S.C. ss. 1396(a) and
955 (d) and 409.904(2).

956 7. The sum of 13.68 percent of the total base allocation
957 to the Medical Care Trust Fund for the funding of annual
958 adjustments to fee reimbursements made to physicians for services
959 provided for children under the Medicaid program so that
960 reimbursement rates for such services are made equal to the
961 Medicaid reimbursement rates as such rates existed on January 1,
962 2008.

963 8. The sum of 1.01 percent of the total base allocation to
964 the Medical Care Trust Fund for the funding of children's health
965 care coverage through the Florida Kidcare program established in

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966 ss. 409.810-409.820. It is the intent of the Legislature to use
967 cigarette user fee collections to increase enrollment of
968 previously uninsured children in the Florida Kidcare program and
969 minimize disruption of such coverage for children at risk for
970 involuntary or premature disenrollment from the program.

971 Therefore, for the purposes of this subparagraph, such credits
972 shall be made each month to the Medical Care Trust Fund as
973 follows:

974 a. A percentage of the total base allocation shall first be
975 credited to fund efforts to ensure appropriate retention of
976 coverage by, and prevention of, the involuntary or premature
977 disenrollment from coverage for children enrolled in the Florida
978 Kidcare program during any month in which such children are not
979 subject to disenrollment under the laws and policies in effect,
980 but would have been subject to disenrollment if the laws and
981 policies governing the Florida Kidcare program in effect on June
982 30, 2008, had remained in effect during such month. The
983 percentage shall be determined by the agency for each fiscal year
984 based on the estimated amount needed to fully fund such retention
985 and prevention efforts, except that such percentage shall not
986 exceed one-tenth of the allocation in this subparagraph and shall
987 remain fixed throughout the fiscal year.

988 b. A percentage of the total base allocation shall next be
989 credited to fund the coverage of children who are enrolled in the
990 Florida Kidcare program and covered under Title XXI of the Social
991 Security Act during any month. The percentage shall be determined
992 by the agency based on the estimated amount needed to fund
993 coverage for a number of children equal to the number enrolled in
994 the Florida Kidcare program and covered under Title XXI of the
995 Social Security Act during such month, as certified to the Chief

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996 Financial Officer by the agency less the number of children
997 similarly enrolled and covered as of June 30, 2008. Such
998 percentage shall not exceed a percentage equal to 1.01 percent
999 less the percentage established pursuant to sub-subparagraph 8.a.

1000 9. The sum of 3.452 percent of the total base allocation
1001 for the funding of medical residency and fellowship programs, as
1002 determined by the Legislature, with primary emphasis given to the
1003 establishment of residencies in the fields of oncology,
1004 cardiology, and pulmonary medicine.

1005 10. The sum of 15.2409 percent of the total base allocation
1006 to the Medical Care Trust Fund for the funding of the MEDS-AD
1007 Waiver Program.

1008 ~~(b)1. Beginning January 1, 1999, and continuing for 10~~
1009 ~~years thereafter, the division shall from month to month certify~~
1010 ~~to the Chief Financial Officer the amount derived from the~~
1011 ~~cigarette tax imposed by s. 210.02, less the service charges~~
1012 ~~provided for in s. 215.20 and less 0.9 percent of the amount~~
1013 ~~derived from the cigarette tax imposed by s. 210.02, which shall~~
1014 ~~be deposited into the Alcoholic Beverage and Tobacco Trust Fund,~~
1015 ~~specifying an amount equal to 2.59 percent of the net~~
1016 ~~collections, and that amount shall be paid to the Board of~~
1017 ~~Directors of the H. Lee Moffitt Cancer Center and Research~~
1018 ~~Institute, established under s. 1004.43, by warrant drawn by the~~
1019 ~~Chief Financial Officer upon the State Treasury. These funds are~~
1020 ~~hereby appropriated monthly out of the Cigarette Tax Collection~~
1021 ~~Trust Fund, to be used for the purpose of constructing,~~
1022 ~~furnishing, and equipping a cancer research facility at the~~
1023 ~~University of South Florida adjacent to the H. Lee Moffitt Cancer~~
1024 ~~Center and Research Institute. In fiscal years 1999-2000 and~~
1025 ~~thereafter with the exception of fiscal year 2008-2009, the~~

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1026 ~~appropriation to the H. Lee Moffitt Cancer Center and Research~~
1027 ~~Institute authorized by this subparagraph shall not be less than~~
1028 ~~the amount that would have been paid to the H. Lee Moffitt Cancer~~
1029 ~~Center and Research Institute for fiscal year 1998-1999 had~~
1030 ~~payments been made for the entire fiscal year rather than for a~~
1031 ~~6-month period thereof.~~

1032 ~~2. Beginning July 1, 2002, and continuing through June 30,~~
1033 ~~2004, the division shall, in addition to the distribution~~
1034 ~~authorized in subparagraph 1., from month to month certify to the~~
1035 ~~Chief Financial Officer the amount derived from the cigarette tax~~
1036 ~~imposed by s. 210.02, less the service charges provided for in s.~~
1037 ~~215.20 and less 0.9 percent of the amount derived from the~~
1038 ~~cigarette tax imposed by s. 210.02, which shall be deposited into~~
1039 ~~the Alcoholic Beverage and Tobacco Trust Fund, specifying an~~
1040 ~~amount equal to 0.2632 percent of the net collections, and that~~
1041 ~~amount shall be paid to the Board of Directors of the H. Lee~~
1042 ~~Moffitt Cancer Center and Research Institute, established under~~
1043 ~~s. 1004.43, by warrant drawn by the Chief Financial Officer.~~
1044 ~~Beginning July 1, 2004, and continuing through June 30, 2016, the~~
1045 ~~division shall, in addition to the distribution authorized in~~
1046 ~~subparagraph 1., from month to month certify to the Chief~~
1047 ~~Financial Officer the amount derived from the cigarette tax~~
1048 ~~imposed by s. 210.02, less the service charges provided for in s.~~
1049 ~~215.20 and less 0.9 percent of the amount derived from the~~
1050 ~~cigarette tax imposed by s. 210.02, which shall be deposited into~~
1051 ~~the Alcoholic Beverage and Tobacco Trust Fund, specifying an~~
1052 ~~amount equal to 1.47 percent of the net collections, and that~~
1053 ~~amount shall be paid to the Board of Directors of the H. Lee~~
1054 ~~Moffitt Cancer Center and Research Institute, established under~~
1055 ~~s. 1004.43, by warrant drawn by the Chief Financial Officer.~~

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1056 ~~These funds are appropriated monthly out of the Cigarette Tax~~
1057 ~~Collection Trust Fund, to be used for the purpose of~~
1058 ~~constructing, furnishing, and equipping a cancer research~~
1059 ~~facility at the University of South Florida adjacent to the H.~~
1060 ~~Lee Moffitt Cancer Center and Research Institute. In fiscal years~~
1061 ~~2004-2005 and thereafter, the appropriation to the H. Lee Moffitt~~
1062 ~~Cancer Center and Research Institute authorized by this~~
1063 ~~subparagraph shall not be less than the amount that would have~~
1064 ~~been paid to the H. Lee Moffitt Cancer Center and Research~~
1065 ~~Institute in fiscal year 2001-2002, had this subparagraph been in~~
1066 ~~effect.~~

1067 (d) During any month, the total amount credited or
1068 transferred from the Cigarette Tax Collection Trust Fund for any
1069 of the uses provided in subparagraph (c)1., subparagraph (c)2.,
1070 or subparagraph (c)4. may not be less than the corresponding
1071 reference year allocation, otherwise, all other amounts to be
1072 transferred or credited pursuant to paragraph (c) must be reduced
1073 proportionately by the minimum amount necessary so that a
1074 reassignment of the total reduction amounts proportionately
1075 increases the amounts to be credited or transferred pursuant to
1076 subparagraph (c)1., subparagraph (c)2., or subparagraph (c)4. to
1077 their corresponding reference year allocation levels, except that
1078 if the sum of all reference year allocations exceeds the total
1079 base allocation, credits or transfers shall be made only for the
1080 latter three purposes in relatively proportionate amounts.

1081 (e) If the total base allocation for a particular month
1082 exceeds the total base allocation for any previous month within
1083 the same fiscal year, the amounts to be credited or transferred
1084 for each of the purposes described in paragraph (c) shall be
1085 increased proportionately, subject to the availability of

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1086 appropriations; however, the total supplemental allocation may
1087 not exceed an amount in accordance with the formula: SA = M x
1088 TBA(c) - TBA(i), where:

1089 1. "SA" is the maximum total supplemental allocation for
1090 the current month.

1091 2. "M" is the number of prior months in the current fiscal
1092 year.

1093 3. "TBA(c)" is the total base allocation for the current
1094 month.

1095 4. "TBA(i)" is the sum of total base allocations for all of
1096 the prior months in the current fiscal year.

1097 Section 21. Section 210.201, Florida Statutes, is amended
1098 to read:

1099 210.201 ~~Cancer facilities ~~research facility~~ at the~~
1100 ~~University of South Florida; establishment; funding.--The Board~~
1101 ~~of Directors of the H. Lee Moffitt Cancer Center and Research~~
1102 ~~Institute shall construct, furnish, and equip, and shall covenant~~
1103 ~~to complete, the cancer research facility at the University of~~
1104 ~~South Florida adjacent to the H. Lee Moffitt Cancer Center and~~
1105 ~~Research Institute. Moneys transferred to the Board of Directors~~
1106 ~~of the H. Lee Moffitt Cancer Center and Research Institute~~
1107 ~~pursuant to s. 210.20 shall be used to secure financing to pay or~~
1108 secure bonds or financial products issued or incurred in
1109 connection with the financing of costs related to constructing,
1110 furnishing, and equipping ~~the~~ cancer research, treatment, and
1111 related facilities ~~facility~~. Such financing may include the
1112 issuance of tax-exempt bonds or other forms of indebtedness by a
1113 local authority, municipality, or county pursuant to parts II and
1114 III of chapter 159. Such bonds shall not constitute state bonds
1115 for purposes of s. 11, Art. VII of the State Constitution, but



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1116 shall constitute bonds of a "local agency," as defined in s.
1117 159.27(4). The cigarette user fee ~~tax~~ dollars pledged to the
1118 facilities ~~this facility~~ pursuant to s. 210.20 may be replaced
1119 annually by the Legislature from tobacco litigation settlement
1120 proceeds.

1121 Section 22. Subsections (1), (2), (12), (13), (14), and
1122 (15) of section 215.5602, Florida Statutes, are amended to read:

1123 215.5602 James and Esther King Biomedical Research
1124 Program.--

1125 (1) There is established within the Department of Health
1126 the James and Esther King Biomedical Research Program funded by
1127 the designated proceeds of s. 210.20(2)(c)5., as well as any
1128 prescribed portion of the Lawton Chiles Endowment Fund pursuant
1129 to s. 215.5601. The purpose of the James and Esther King
1130 Biomedical Research Program is to provide an annual and perpetual
1131 source of funding in order to support research initiatives that
1132 address the health care problems of Floridians in the areas of
1133 tobacco-related cancer, cardiovascular disease, stroke, and
1134 pulmonary disease. The long-term goals of the program are to:

1135 (a) Improve the health of Floridians by researching better
1136 prevention, diagnoses, treatments, and cures for cancer,
1137 cardiovascular disease, stroke, and pulmonary disease.

1138 (b) Expand the foundation of biomedical knowledge relating
1139 to the prevention, diagnosis, treatment, and cure of diseases
1140 related to tobacco use, including cancer, cardiovascular disease,
1141 stroke, and pulmonary disease.

1142 (c) Improve the quality of the state's academic health
1143 centers by bringing the advances of biomedical research into the
1144 training of physicians and other health care providers.

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1145 (d) Increase the state's per capita funding for research by
1146 undertaking new initiatives in public health and biomedical
1147 research that will attract additional funding from outside the
1148 state.

1149 (e) Stimulate economic activity in the state in areas
1150 related to biomedical research, such as the research and
1151 production of pharmaceuticals, biotechnology, and medical
1152 devices.

1153 (f) Expand the research capacity and infrastructure needed
1154 to conduct research on tobacco-related illnesses, with the
1155 provision of fixed capital outlay project funding as deemed
1156 appropriate by the Biomedical Research Advisory Council within
1157 the program's annual appropriation and with up to 25 percent of
1158 the program's annual funding allocation applied for this purpose
1159 by the council.

1160 (2) Funds appropriated for the James and Esther King
1161 Biomedical Research Program shall be used exclusively for the
1162 award of grants and fellowships as established in this section;
1163 for research relating to the prevention, diagnosis, treatment,
1164 and cure of diseases related to tobacco use, including cancer,
1165 cardiovascular disease, stroke, and pulmonary disease; for
1166 expenditures related to the expansion of tobacco-related research
1167 capacity and infrastructure within the state, including the
1168 provision of capital outlay costs to achieve such purpose; and
1169 for expenses incurred in the administration of this section.
1170 Priority shall be granted to research designed to prevent or cure
1171 disease.

1172 (12) Beginning in fiscal year 2006-2007, the sum of \$6
1173 million is appropriated annually from recurring funds in the
1174 General Revenue Fund to the Biomedical Research Trust Fund within

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1175 the Department of Health for purposes of the James and Esther
1176 King Biomedical Research Program pursuant to this section. From
1177 these funds up to \$1 million ~~\$250,000~~ shall be available for the
1178 operating costs of the Florida Center for Universal Research to
1179 Eradicate Disease.

1180 (13) By June 1, 2009, the Division of Statutory Revision of
1181 the Office of Legislative Services shall certify to the President
1182 of the Senate and the Speaker of the House of Representatives the
1183 language and statutory citation of this section, which is
1184 scheduled to expire January 1, 2015 ~~2011~~.

1185 (14) The Legislature shall review the performance, the
1186 outcomes, and the financial management of the James and Esther
1187 King Biomedical Research Program during the 2014 ~~2010~~ Regular
1188 Session of the Legislature and shall determine the most
1189 appropriate funding source and means of funding the program based
1190 on its review.

1191 (15) This section expires January 1, 2015 ~~2011~~, unless
1192 reviewed and reenacted by the Legislature before that date.

1193 Section 23. Subsections (1) and (2) of section 381.922,
1194 Florida Statutes, are amended, present subsections (6), (7), and
1195 (8) of that section are amended and redesignated as subsections
1196 (7), (8), and (9), respectively, and a new subsection (6) is
1197 added to that section, to read:

1198 381.922 William G. "Bill" Bankhead, Jr., and David Coley
1199 Cancer Research Program.--

1200 (1) The William G. "Bill" Bankhead, Jr., and David Coley
1201 Cancer Research Program, which may be otherwise cited as the
1202 "Bankhead-Coley Program," is created within the Department of
1203 Health. The purpose of the program shall be to advance progress
1204 towards cures for cancer through grants awarded through a peer-



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1205 reviewed, competitive process, and to expand cancer research and
1206 treatment capacity in the state.

1207 (2) The program shall provide grants for cancer research to
1208 further the search for cures for cancer, for the recruitment of
1209 cancer researchers and research teams to institutions within the
1210 state, for operational start-up grants for newly recruited cancer
1211 researchers and research teams, and for fixed capital outlay
1212 expenditures related to the expansion of cancer research and
1213 treatment capacity in Florida, with up to 25 percent of the
1214 program's annual allocation applied to these purposes.

1215 (a) Emphasis shall be given to the goals enumerated in s.
1216 381.921, as those goals support the advancement of such cures.

1217 (b) Preference may be given to grant proposals that foster
1218 collaborations among institutions, researchers, and community
1219 practitioners, as such proposals support the advancement of cures
1220 through basic or applied research, including clinical trials
1221 involving cancer patients and related networks.

1222 (6) Beginning in the 2008-2009 fiscal year, and every year
1223 thereafter, designated proceeds generated by s. 210.20(2)(c)5.
1224 shall be employed to enhance the purposes prescribed in this
1225 section.

1226 ~~(7)~~ (6) By June 1, 2009, the Division of Statutory Revision
1227 of the Office of Legislative Services shall certify to the
1228 President of the Senate and the Speaker of the House of
1229 Representatives the language and statutory citation of this
1230 section, which is scheduled to expire January 1, 2015 ~~2011~~.

1231 ~~(8)~~ (7) The Legislature shall review the performance, the
1232 outcomes, and the financial management of the William G. "Bill"
1233 Bankhead, Jr., and David Coley Cancer Research Program during the
1234 2014 ~~2010~~ Regular Session of the Legislature and shall determine



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1235 the most appropriate funding source and means of funding the
 1236 program based on its review.

1237 ~~(9)-(8)~~ This section expires January 1, 2015 ~~2011~~, unless
 1238 reviewed and reenacted by the Legislature before that date.

1239 Section 24. By December 1, 2009, and before December 1 of
 1240 each year thereafter, the Department of Health shall submit to
 1241 the Governor, the President of the Senate, and the Speaker of the
 1242 House of Representatives a report containing an estimate of the
 1243 financial impact of tobacco use and related illnesses on the
 1244 state's economy and its taxpayers for each of the prior 10 years,
 1245 as well as an estimate of the value of cost savings associated
 1246 with the expenditure of revenues generated by the cigarette user
 1247 fee imposed by s. 210.02, Florida Statutes, during the same
 1248 period.

1249 Section 25. This act shall take effect July 1, 2008.

1251 ===== T I T L E A M E N D M E N T =====

1252 And the title is amended as follows:

1253 Delete everything before the enacting clause
 1254 and insert:

1255 A bill to be entitled
 1256 An act relating to cigarette user fees; providing
 1257 legislative findings; amending s. 210.01, F.S.; defining
 1258 the terms "council," "total collections," and "net
 1259 collections"; revising the definitions of "exporter,"
 1260 "unstamped package," "stamp" or "stamps," and "counterfeit
 1261 cigarettes"; amending s. 210.02, F.S.; replacing all
 1262 references to the term tax with user fee; increasing the
 1263 amount of the cigarette user fee; amending ss. 210.021,
 1264 210.03, 210.04, 210.05, 210.06, 210.07, 210.08, 210.09,

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1265 | 210.11, 210.12, 210.13, 210.14, 210.15, 210.18, 210.181,
1266 | 210.185, and 210.19, F.S.; conforming provisions to changes
1267 | made by the act; amending s. 210.20, F.S.; providing
1268 | definitions; requiring the Division of Alcoholic Beverages
1269 | and Tobacco to certify to the Chief Financial Officer the
1270 | amount of net collections derived from the user fee on a
1271 | monthly basis; requiring the division to credit a specific
1272 | percent of the total base allocation to certain trust
1273 | funds, the H. Lee Moffitt Cancer Center and Research
1274 | Institute's Board of Directors, the William G. "Bill"
1275 | Bankhead, Jr., and David Coley Cancer Research Program,
1276 | and certain medical residency and fellowship programs;
1277 | providing legislative intent to use the cigarette user fee
1278 | collections to increase enrollment in the Florida Kidcare
1279 | program; requiring that the amounts credited or
1280 | transferred from the Cigarette Tax Collection Trust Fund
1281 | be adjusted in proportion to the corresponding reference
1282 | year allocation; providing a formula for calculating the
1283 | maximum total supplemental allocation; amending s.
1284 | 210.201, F.S.; requiring the Board of Directors of the H.
1285 | Lee Moffitt Cancer Center and Research Institute to use
1286 | funds to secure bonds or financial products for cancer
1287 | facilities; amending s. 215.5602, F.S.; requiring the
1288 | James and Esther King Biomedical Research Program to
1289 | appropriate a certain percent of the program's annual
1290 | funding to expand research conducted on tobacco-related
1291 | illnesses; increasing the amount of funds allocated to the
1292 | Florida Center for Universal Research to Eradicate
1293 | Disease; extending certain expiration dates; amending s.
1294 | 381.922, F.S.; revising the purpose of the William G.

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1295 | "Bill" Bankhead, Jr., and David Coley Cancer Research
1296 | Program to expand cancer research and treatment; requiring
1297 | the program to provide grants for the recruitment of
1298 | cancer researchers and institutions, operational start-up
1299 | grants for newly recruited researchers, and for fixed
1300 | capital outlay; requiring that certain proceeds be used
1301 | for certain purposes; extending certain expiration dates;
1302 | requiring the Department of Health to submit a report to
1303 | the Governor and the Legislature by a certain date which
1304 | contains an estimate of the financial impact of tobacco
1305 | use and related illnesses on the economy and taxpayers;
1306 | providing an effective date.