

By the Committee on Health Policy; and Senators Deutch, Ring, Rich, Bennett, Joyner and Dawson

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1 A bill to be entitled
2 An act relating to cigarette user fees; providing
3 legislative findings; amending s. 210.01, F.S.; defining
4 the terms "council," "total collections," and "net
5 collections"; revising the definitions of "exporter,"
6 "unstamped package," "stamp" or "stamps," and "counterfeit
7 cigarettes"; amending s. 210.02, F.S.; replacing all
8 references to the term tax with user fee; increasing the
9 amount of the cigarette user fee; amending ss. 210.021,
10 210.03, 210.04, 210.05, 210.06, 210.07, 210.08, 210.09,
11 210.11, 210.12, 210.13, 210.14, 210.15, 210.18, 210.181,
12 210.185, and 210.19, F.S.; conforming provisions to changes
13 made by the act; amending s. 210.20, F.S.; providing
14 definitions; requiring the Division of Alcoholic Beverages
15 and Tobacco to certify to the Chief Financial Officer the
16 amount of net collections derived from the user fee on a
17 monthly basis; requiring the division to credit a specific
18 percent of the total base allocation to certain trust
19 funds, the H. Lee Moffitt Cancer Center and Research
20 Institute's Board of Directors, the William G. "Bill"
21 Bankhead, Jr., and David Coley Cancer Research Program,
22 and certain medical residency and fellowship programs;
23 providing legislative intent to use the cigarette user fee
24 collections to increase enrollment in the Florida Kidcare
25 program; requiring that the amounts credited or
26 transferred from the Cigarette Tax Collection Trust Fund
27 be adjusted in proportion to the corresponding reference
28 year allocation; providing a formula for calculating the
29 maximum total supplemental allocation; amending s.

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30 210.201, F.S.; requiring the Board of Directors of the H.
31 Lee Moffitt Cancer Center and Research Institute to use
32 funds to secure bonds or financial products for cancer
33 facilities; amending s. 215.5602, F.S.; requiring the
34 James and Esther King Biomedical Research Program to
35 appropriate a certain percent of the program's annual
36 funding to expand research conducted on tobacco-related
37 illnesses; increasing the amount of funds allocated to the
38 Florida Center for Universal Research to Eradicate
39 Disease; extending certain expiration dates; amending s.
40 381.922, F.S.; revising the purpose of the William G.
41 "Bill" Bankhead, Jr., and David Coley Cancer Research
42 Program to expand cancer research and treatment; requiring
43 the program to provide grants for the recruitment of
44 cancer researchers and institutions, operational start-up
45 grants for newly recruited researchers, and for fixed
46 capital outlay; requiring that certain proceeds be used
47 for certain purposes; extending certain expiration dates;
48 requiring the Department of Health to submit a report to
49 the Governor and the Legislature by a certain date which
50 contains an estimate of the financial impact of tobacco
51 use and related illnesses on the economy and taxpayers;
52 providing an effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. The Legislature finds that cigarette consumption
57 dramatically impacts the state's Medicaid budget and a
58 substantial deficit has been created between what consumers pay

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59 in related excise or privilege fees and what the state actually
60 incurs in health care costs. The Legislature further finds that
61 the imposition of a user fee on cigarettes should at least be
62 commensurate with the projected governmental costs associated
63 with the consumption of cigarettes. The Legislature further finds
64 that revenues derived from such user fees should apply to health
65 care, with an emphasis given to measures for which there is a
66 connection between cigarette consumption and the user fee revenue
67 generated from the consumption of cigarettes.

68 Section 2. Section 210.01, Florida Statutes, is amended to
69 read:

70 210.01 Definitions.--When used in this part the following
71 words shall have the meaning herein indicated:

72 (1) "Cigarette" means any roll for smoking, except one of
73 which the tobacco is fully naturally fermented, without regard to
74 the kind of tobacco or other substances used in the inner roll or
75 the nature or composition of the material in which the roll is
76 wrapped, which is made wholly or in part of tobacco irrespective
77 of size or shape and whether such tobacco is flavored,
78 adulterated or mixed with any other ingredient.

79 (2) "Persons" means any individual, copartnership, society,
80 club, association, corporation, joint stock company, and any
81 combination of individuals and also an executor, administrator,
82 receiver, trustee or other fiduciary.

83 (3) "Sale" means any transfer, exchange or barter in any
84 manner, or by any means whatever.

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

87 (5) "Dealer" means any wholesale dealer as hereinafter

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88 defined.

89 (6) "Wholesale dealer" means any person located inside or
90 outside this state who sells cigarettes to retail dealers or
91 other persons for purposes of resale only. Such term shall not
92 include any cigarette manufacturer, export warehouse proprietor,
93 or importer with a valid permit under 26 U.S.C. s. 5712 if such
94 person sells or distributes cigarettes in this state only to
95 dealers who are agents and who hold valid and current permits
96 under s. 210.15 or to any cigarette manufacturer, export
97 warehouse proprietor, or importer who holds a valid and current
98 permit under 26 U.S.C. s. 5712.

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

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

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

109 (10) "Division" means the Division of Alcoholic Beverages
110 and Tobacco of the Department of Business and Professional
111 Regulation.

112 (11) "Council" means the Biomedical Research Advisory
113 Council within the Department of Health established in s.
114 215.5602.

115 (12)~~(11)~~ "Use" means the consuming, giving away or
116 disposing, in any manner, of cigarettes.

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117 (13)~~(12)~~ "First sale" means the first use or consumption of
118 cigarettes within this state.

119 (14)~~(13)~~ "Operating ad valorem millage" means all millages
120 other than those fixed for debt service.

121 (15) "Total collections" means the total amount
122 derived from the cigarette user fee during a specified
123 period of time.

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

126 (17)~~(14)~~ "Distributing agent" means every person, firm or
127 corporation in this state who acts as an agent for any person,
128 firm or corporation outside or inside the state by receiving
129 cigarettes in interstate or intrastate commerce and storing such
130 cigarettes subject to distribution or delivery upon order from
131 said principal to wholesale dealers and other distributing agents
132 inside or outside this state.

133 (18)~~(15)~~ "Place of business" means any place where
134 cigarettes are sold or where cigarettes are stored or kept for
135 the purpose of sale or consumption; or if cigarettes are sold
136 from a vending machine the place in which the vending machine is
137 located.

138 (19)~~(16)~~ "Manufacturer's representative" means a person who
139 represents a manufacturer of cigarettes but who has no place of
140 business in this state where cigarettes are stored. A
141 manufacturer's representative is required to obtain any
142 cigarettes required by her or him through a wholesale dealer in
143 this state and to make such reports as may be required by the
144 Division of Alcoholic Beverages and Tobacco of the Department of
145 Business and Professional Regulation.

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146 (20)~~(17)~~ "Exporter" means a person who transports user-fee-
147 exempt or tax-exempt cigarettes into this state under bond for
148 delivery beyond the borders of this state. Each permit shall
149 entitle the permittee to store such cigarettes under bond at one
150 location in this state pending shipment beyond the borders of
151 this state.

152 (21)~~(18)~~ "Unstamped package" or "unstamped cigarettes"
153 means a package on which the user fee ~~tax~~ required by this part
154 has not been paid, regardless of whether or not such package is
155 stamped or marked with the indicia of any other user fee
156 assessment or taxing authority, or a package on which there has
157 been affixed a counterfeit or fraudulent indicium or stamp.

158 (22)~~(19)~~ "Stamp" or "stamps" means the indicia required to
159 be placed on cigarette packages that evidence payment of the user
160 fee ~~tax~~ on cigarettes under s. 210.02.

161 (23)~~(20)~~ "Importer" means any person with a valid permit
162 under 26 U.S.C. s. 5712 who imports into the United States,
163 directly or indirectly, a finished cigarette for sale or
164 distribution.

165 (24)~~(21)~~ "Manufacturer" means any domestic person or entity
166 with a valid permit under 26 U.S.C. s. 5712 that manufactures,
167 fabricates, assembles, processes, or labels a finished cigarette.

168 (25)~~(22)~~ "Counterfeit cigarettes" means cigarettes that
169 have false manufacturing labels, tobacco product packs with
170 counterfeit user fee ~~tax~~ stamps, or any combination thereof.

171 Section 3. Section 210.02, Florida Statutes, is amended to
172 read:

173 210.02 Cigarette user fee ~~tax~~ imposed; collection.--

174 (1) A user fee ~~An excise or privilege tax~~, in addition to

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175 all other fees ~~taxes~~ of every kind imposed by law, is imposed
176 upon the sale, receipt, purchase, possession, consumption,
177 handling, distribution, and use of cigarettes in this state, in
178 the following amounts, except as hereinafter otherwise provided,
179 for cigarettes of standard dimensions:

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

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

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

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

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

200 (a) Packages containing 10 cigarettes or less require a
201 66.9-cent user fee ~~16.95-cent tax~~.

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

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

208 (a) Packages containing 10 cigarettes or less require a
209 133.9-cent user fee ~~33.9-cent tax~~.

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

212 (5) When cigarettes as described in paragraph (1)(c) are
213 packed in varying quantities of 20 cigarettes or less, except
214 manufacturer's free samples authorized under s. 210.04(9), the
215 following rates shall govern:

216 (a) Packages containing 10 cigarettes or less require a
217 267.8-cent user fee ~~67.8-cent tax~~.

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

220 (6) This user fee ~~tax~~ shall be paid by the dealer to the
221 division for deposit and distribution as hereinafter provided
222 upon the first sale or transaction within the state, whether or
223 not such sale or transfer be to the ultimate purchaser or
224 consumer. The seller or dealer shall collect the user fee ~~tax~~
225 from the purchaser or consumer, and the purchaser or consumer
226 shall pay the user fee ~~tax~~ to the seller. The seller or dealer
227 shall be responsible for the collection of the user fee ~~tax~~ and
228 the payment of the same to the division. All user fees collected
229 pursuant to this section ~~taxes~~ are due not later than the 10th
230 day of the month following the calendar month in which they were
231 incurred, and thereafter shall bear interest at the rate of 1
232 percent per month. If the amount of user fee proceeds ~~tax~~ due for

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233 a given period is assessed without allocating it to any
234 particular month, the interest shall begin with the date of the
235 assessment. Whenever cigarettes are shipped from outside the
236 state to anyone other than a distributing agent or wholesale
237 dealer, the person receiving the cigarettes shall be responsible
238 for the user fee tax on said cigarettes and the payment of same
239 to the division.

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

242 Section 4. Section 210.021, Florida Statutes, is amended to
243 read:

244 210.021 Payment of user fees taxes by certified check or
245 electronic funds transfer.--

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

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

255 (3) The division shall adopt rules pursuant to ss.
256 120.536(1) and 120.54 to administer this section.

257 Section 5. Section 210.03, Florida Statutes, is amended to
258 read:

259 210.03 Prohibition against levying of cigarette user fees
260 ~~taxes~~ by municipalities.--No municipality shall, after July 1,
261 1972, levy or collect any user fee ~~excise tax~~ on cigarettes.

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262 Section 6. Section 210.04, Florida Statutes, is amended to
263 read:

264 210.04 Construction; exemptions; collection.--

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

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

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

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

277 (a) Upon cigarettes sold at post exchanges, ship service
278 stores, ship stores, slop chests, or base exchanges to members of
279 the Armed Services of the United States when such post exchanges,
280 ship service stores, or base exchanges are operated under
281 regulations of the Army, Navy, or Air Force of the United States
282 on military, naval, or air force reservations in this state or
283 when such ship stores or slop chests are operated under the
284 regulations of the United States Navy on ships of the United
285 States Navy; however, it is unlawful for anyone, including
286 members of the Armed Services of the United States, to purchase
287 such user-fee-exempt or tax-exempt cigarettes for purposes of
288 resale. Any person who resells, or offers for resale, user-fee-
289 exempt or tax-exempt cigarettes purchased at post exchanges, ship
290 service stores, ship stores, slop chests, or base exchanges is

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291 guilty of a violation of the cigarette user fee ~~tax~~ law,
292 punishable as provided in s. 210.18(1).

293 (b) Upon the sale or gift of cigarettes by charitable
294 organizations to bona fide patients in regularly established
295 government veterans' hospitals in Florida for the personal use or
296 consumption of such patients.

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

301 (6) The sale of single or loose unpacked cigarettes is
302 prohibited. The division may authorize any person to give away
303 sample packages of cigarettes, each to contain not less than two
304 cigarettes upon which the user fees ~~taxes~~ have been paid.

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

309 (8) Except as hereinafter provided, all agents shall be
310 liable for the collection and payment of the user fee ~~tax~~ imposed
311 by this part and shall pay the user fee ~~tax~~ to the division by
312 purchasing, under such regulations as it shall prescribe,
313 adhesive stamps of such design and denominations as it shall
314 prescribe.

315 (9) Agents, located within or without the state, shall
316 purchase stamps and affix such stamps in the manner prescribed to
317 packages or containers of cigarettes to be sold, distributed, or
318 given away within the state, in which case any dealer
319 subsequently receiving such stamped packages of cigarettes will

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320 not be required to purchase and affix stamps on such packages of
321 cigarettes. However, the division may, in its discretion,
322 authorize manufacturers to distribute in the state free sample
323 packages of cigarettes containing not less than 2 or more than 20
324 cigarettes without affixing any user fee ~~tax~~ stamps provided
325 copies of shipping invoices on such cigarettes are furnished, and
326 payment of all user fees ~~taxes~~ imposed on such cigarettes by law
327 is made, directly to the division not later than the 10th day of
328 each calendar month. The user fee ~~tax~~ on cigarettes in sample
329 packages shall be based on a unit in accordance with the
330 assessment ~~taxing~~ provisions of s. 210.02(1).

331 Section 7. Section 210.05, Florida Statutes, is amended to
332 read:

333 210.05 Preparation and sale of stamps; discount.--

334 (1) The user fee ~~tax~~ imposed by this part shall be paid by
335 affixing stamps in the manner herein set forth or by affixing
336 stamp insignia through the device of metering machines authorized
337 in this part.

338 (2) The division shall prescribe, prepare, and furnish
339 stamps of such denominations and quantities as may be necessary
340 for the payment of the user fee ~~tax~~ imposed by this part, and may
341 from time to time and as often as it deems advisable provide for
342 the issuance and exclusive use of stamps of a new design and
343 forbid the use of stamps of any other design. However, all stamps
344 prescribed by the division must be designed and furnished in a
345 fashion that permits identification of the agent or wholesale
346 dealer that affixed the stamp to the particular package of
347 cigarettes by means of a serial number or other mark on the
348 stamp. The division shall make provisions for the sale of such

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349 stamps at such places and at such time as it may deem necessary.

350 (3) (a) The division may appoint dealers in cigarettes,
351 manufacturers of cigarettes, within or without the state as agent
352 to buy or affix stamps to be used in paying the user fee tax
353 herein imposed, but an agent shall at all times have the right to
354 appoint a person in his or her employ who is to affix the stamps
355 to any cigarettes under the agent's control; provided, however,
356 that any wholesale dealer in the state shall have the right to
357 buy and affix such stamps. Whenever the division shall sell and
358 deliver to any such agent or wholesaler any such stamps, such
359 agent or wholesaler shall be entitled to receive as compensation
360 for his or her services and expenses as such agent or wholesaler
361 in affixing and accounting for the user fees taxes represented by
362 such stamps and to retain out of the moneys to be paid by the
363 agent or wholesaler for such stamps a discount of 2 percent of
364 the par value of any amount of stamps purchased during any fiscal
365 year from July 1 through June 30 of the following year, provided
366 the discount shall be computed on the basis of 24 cents per pack.
367 No such discount shall be allowed to a dealer, vendor, or
368 distributor who sells or deals in any form of candy which
369 resembles drug paraphernalia. Stamping locations approved by the
370 division shall be responsible for computing the discount they
371 receive pursuant to this paragraph, and said computations shall
372 be retained by the stamping location for a period of 5 years and
373 shall be available to the division. All stamps purchased from the
374 division under this part shall be paid for in cash on delivery,
375 except as hereinafter provided.

376 (b) Each agent appointed by the division to affix stamps
377 shall be authorized to purchase stamps by furnishing an

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378 irrevocable letter of credit or unconditional guaranty contract
379 or by executing bond with a solvent surety company qualified to
380 do business in this state, in an amount of 110 percent of the
381 agent's estimated user fee ~~tax~~ liability for 30 days, but not
382 less than \$2,000, conditioned upon said agent paying all user
383 fees ~~taxes~~ due the state arising hereunder. This form of payment
384 in lieu of cash on delivery or its equivalent shall not preclude
385 supplemental purchases for cash. Payment for each month's
386 liability shall be due on or before the 10th day of the month
387 following the month in which the stamps were sold. Default in the
388 aforesaid bonding and payment provisions by any agent may result
389 in the revocation of his or her privilege to purchase stamps
390 except for cash on delivery for a period up to 12 months in the
391 discretion of the division.

392 (4) The division may in its discretion revoke the authority
393 of any agent failing to comply with the requirements of this part
394 or the rules and regulations promulgated hereunder and such agent
395 may in addition be punished in accordance with the provisions of
396 this part.

397 (5) Agents or wholesale dealers may sell stamped but
398 unassessed ~~untaxed~~ cigarettes to the Seminole Indian Tribe, or to
399 members thereof, for retail sale. Agents or wholesale dealers
400 shall treat such cigarettes and the sale thereof in the same
401 manner, with respect to reporting and stamping, as other sales
402 under this part, but agents or wholesale dealers shall not
403 collect from the purchaser the user fee ~~tax~~ imposed by s. 210.02.
404 The purchaser hereunder shall be responsible to the agent or
405 wholesale dealer for the services and expenses incurred in
406 affixing the stamps and accounting therefor.

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407 Section 8. Section 210.06, Florida Statutes, is amended to
408 read:

409 210.06 Affixation of stamps; presumption.--

410 (1) Every dealer within the state shall affix or cause to
411 be affixed to such package or container of such cigarettes such
412 stamps as are required under this section within 10 days after
413 receipt of such products. Dealers outside this state shall affix
414 such stamps before the shipment of cigarettes into this state.

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

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

422 (c) Dealers may apply stamps only to cigarette packages
423 received directly from a manufacturer or importer of cigarettes,
424 or a distributing agent representing a manufacturer or importer
425 of cigarettes, who possesses a valid and current permit under
426 this part.

427 (2) Each retail dealer shall open such box, carton or other
428 container of cigarettes prior to exposing for sale or selling
429 such cigarettes and examine the packages contained therein for
430 the purpose of ascertaining whether or not the said packages have
431 affixed thereto the proper user fee ~~tax~~ stamp. If unstamped or
432 improperly stamped packages of cigarettes are discovered, the
433 retail dealer shall immediately notify the dealer from whom said
434 cigarettes were purchased. Upon such notification, the dealer
435 from whom said cigarettes were purchased shall replace such

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436 unstamped or improperly stamped packages of cigarettes with those
437 upon which stamps have been properly affixed, or immediately
438 affix thereto the proper amount of stamps.

439 (3) Whenever any cigarettes are found in the place of
440 business of any such retail dealer, or in the possession of any
441 other person without the stamps affixed, the presumption shall be
442 that such cigarettes are kept in violation of the provisions of
443 this law.

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

450 (5) Except as provided in s. 210.04(9) or s. 210.09(1), no
451 person, other than a dealer or distributing agent that receives
452 unstamped cigarette packages directly from a cigarette
453 manufacturer or importer in accordance with this section and s.
454 210.085, shall hold or possess an unstamped cigarette package.
455 Dealers shall be permitted to set aside, without application of
456 stamps, only such part of the dealer's stock that is identified
457 for sale or distribution outside this state. If a dealer
458 maintains stocks of unstamped cigarette packages, such unstamped
459 packages shall be stored separately from stamped product
460 packages. No unstamped cigarette packages shall be transferred by
461 a dealer to another facility of the dealer within this state or
462 to another person within this state.

463 Section 9. Section 210.07, Florida Statutes, is amended to
464 read:

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465 210.07 Metering machines.--

466 (1) (a) The user fee ~~tax~~ may also be paid through the use of
467 cigarette user fee ~~tax~~ stamp insignia to be applied by the use of
468 metering machines. The division shall prescribe and promulgate
469 appropriate rules and regulations governing the use of metering
470 machines, the procedure for the payment of such cigarette user
471 fees ~~taxes~~ through the use thereof, requiring adequate surety
472 bonds of the users thereof to assure the proper use of such
473 machines and payment of all cigarette user fees ~~taxes~~ that might
474 come due by the users thereof, and all other rules and
475 regulations necessary and proper to govern the use of same.

476 (b) The provisions of s. 210.05(3) (a) and (b) shall be
477 applicable to cigarette user fees ~~taxes~~ paid through the use of
478 metering machines.

479 (2) All provisions of this part governing the use of
480 cigarette user fee ~~tax~~ stamps, the compiling of records, the
481 making of reports, permits and revocation of permits, seizures
482 and forfeitures, penalties, and all other provisions pertaining
483 to the payment of cigarette user fees ~~taxes~~ through the use of
484 stamps, shall likewise be applicable to the payment of said user
485 fees ~~taxes~~ through the use of metering machines.

486 (3) Wholesale or retail dealers of cigarettes owning,
487 leasing, furnishing, or operating cigarette vending machines
488 shall affix to each such machine, in a conspicuous place, an
489 identification sticker furnished by the division. Every sticker
490 shall show the vending machine serial number and the name and
491 address of the cigarette wholesale or retail dealer owning,
492 leasing, furnishing, or operating said vending machine.

493 (4) No vending machine shall be allowed to operate in the

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494 state that does not have affixed thereto the identification
495 sticker required by this section nor shall any vending machine be
496 allowed to operate in the state that does not display at all
497 times at least one package of each brand of the packages located
498 therein so the same are clearly visible and arranged in such a
499 manner that the cigarette user fee ~~tax~~ stamps or meter
500 impressions of stamps affixed thereto are clearly visible. It
501 shall be the duty of any person, firm or corporation operating a
502 cigarette vending machine in this state to furnish the division
503 the location of the vending machine and to report within 30 days
504 to the division any change of location of the vending machine.

505 Section 10. Section 210.08, Florida Statutes, is amended to
506 read:

507 210.08 Bond for payment of user fees ~~taxes~~.--Each dealer,
508 agent, or distributing agent shall file with the division a
509 surety bond, certificate of deposit, or irrevocable letter of
510 credit acceptable to the division in an amount equal to 110
511 percent of the estimated user fee ~~tax~~ liability for 30 days, but
512 not less than \$2,000.

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

515 210.09 Records to be kept; reports to be made;
516 examination.--

517 (2) The division is authorized to prescribe and promulgate
518 by rules and regulations, which shall have the force and effect
519 of the law, such records to be kept and reports to be made to the
520 division by any manufacturer, importer, distributing agent,
521 wholesale dealer, retail dealer, common carrier, or any other
522 person handling, transporting or possessing cigarettes for sale

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523 or distribution within the state as may be necessary to collect
524 and properly distribute the user fees ~~taxes~~ imposed by s. 210.02.
525 All reports shall be made on or before the 10th day of the month
526 following the month for which the report is made, unless the
527 division by rule or regulation shall prescribe that reports be
528 made more often.

529 (3) All manufacturers, importers, distributing agents,
530 wholesale dealers, agents, or retail dealers shall maintain and
531 keep for a period of 3 years at the place of business where any
532 transaction takes place, such records of cigarettes received,
533 sold, or delivered within the state as may be required by the
534 division. The division or its duly authorized representative is
535 hereby authorized to examine the books, papers, invoices, and
536 other records, the stock of cigarettes in and upon any premises
537 where the same are placed, stored, and sold, and the equipment of
538 any such manufacturers, importers, distributing agents, wholesale
539 dealers, agents, or retail dealers, pertaining to the sale and
540 delivery of cigarettes assessable ~~taxable~~ under this part. To
541 verify the accuracy of the user fee ~~tax~~ imposed and assessed by
542 this part, each person is hereby directed and required to give to
543 the division or its duly authorized representatives the means,
544 facilities, and opportunity for such examinations as are herein
545 provided for and required.

546 Section 12. Section 210.11, Florida Statutes, is amended to
547 read:

548 210.11 Refunds; sales of stamps and payment of user fee
549 ~~tax~~.--Whenever any cigarettes upon which stamps have been placed,
550 or upon which the user fee ~~tax~~ has been paid by metering machine,
551 have been sold and shipped into another state for sale or use

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552 | therein, or have become unfit for use and consumption or
553 | unsalable, or have been destroyed, the dealer involved shall be
554 | entitled to a refund or credit of the actual amount of the user
555 | fee ~~tax~~ paid with respect to such cigarettes less any discount
556 | allowed by the division in the sale of the stamps or payment of
557 | the user fee ~~tax~~ by metering machine, upon receipt of
558 | satisfactory evidence of the dealer's right to receive such
559 | refund or credit, provided application for refund or credit is
560 | made within 9 months of the date the cigarettes were shipped out
561 | of the state, became unfit, or were destroyed. Only the division
562 | shall sell, or offer for sale, any stamp or stamps issued under
563 | this part. The division may redeem unused stamps lawfully in the
564 | possession of any person. The division may prescribe necessary
565 | rules and regulations concerning refunds, credits, sales of
566 | stamps, and redemptions under the provisions of this part.
567 | Appropriation is hereby made out of revenues collected under this
568 | part for payment of such allowances.

569 | Section 13. Section 210.13, Florida Statutes, is amended to
570 | read:

571 | 210.13 Determination of user fee ~~tax~~ on failure to file a
572 | return.--If a dealer fails to file any return required under this
573 | part, or having filed an incorrect or insufficient return, fails
574 | to file a correct or sufficient return, as the case may require,
575 | within 10 days after the giving of notice to the dealer by the
576 | Division of Alcoholic Beverages and Tobacco that such return or
577 | corrected or sufficient return is required, the division shall
578 | determine the amount of user fee ~~tax~~ due by such dealer any time
579 | within 3 years after the making of the earliest sale included in
580 | such determination and give written notice of such determination

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581 to such dealer. Such a determination shall finally and
582 irrevocably fix the user fee ~~tax~~ unless the dealer against whom
583 it is assessed shall, within 30 days after the giving of notice
584 of such determination, apply to the division for a hearing.
585 Judicial review shall not be granted unless the amount of the
586 user fee ~~tax~~ stated in the decision, with penalties thereon, if
587 any, shall have been first deposited with the division, and an
588 undertaking or bond filed in the court in which such cause may be
589 pending in such amount and with such sureties as the court shall
590 approve, conditioned that if such proceeding be dismissed or the
591 decision of the division confirmed, the applicant for review will
592 pay all costs and charges which may accrue against the applicant
593 in the prosecution of the proceeding. At the option of the
594 applicant, such undertaking or bond may be in an additional sum
595 sufficient to cover the user fees ~~tax~~, penalties, costs, and
596 charges aforesaid, in which event the applicant shall not be
597 required to pay such user fees ~~tax~~ and penalties precedent to the
598 granting of such review by such court.

599 Section 14. Section 210.14, Florida Statutes, is amended to
600 read:

601 210.14 Warrant for collection of user fees ~~taxes~~.--

602 (1) In addition to all other remedies for the collection of
603 any user fees ~~taxes~~ due under the provisions of this part, the
604 division may issue a warrant under its official seal, which
605 warrant may be filed by the division in the office of the clerk
606 of the circuit court of any county where the delinquent person
607 ~~taxpayer~~ owns property. Upon presentation of the warrant, the
608 clerk of the circuit court shall enter it in the judgment docket.
609 The name of the person mentioned in the warrant, the amount of

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610 the user fee ~~tax~~ and penalties for which the warrant was issued,
611 and the date such copy was filed shall be included in the record
612 of the warrant. The clerk shall be allowed the same fees as are
613 allowed by law for similar services rendered in judgment
614 execution proceedings. The warrant issued by the division may
615 then be directed to the sheriff of any county commanding that
616 sheriff to levy upon and sell the goods and chattels of the
617 specified delinquent person found within the sheriff's
618 jurisdiction, for the payment of the amount of such delinquency
619 plus a penalty equal to 50 percent of the amount thereof, and
620 interest on the total at 1 percent per month and the cost of
621 executing the warrant, and to return such warrant to the division
622 and to pay it the money collected by virtue thereof within 60
623 days after receipt of such warrant.

624 (2) The amount of the warrant docketed pursuant to
625 subsection (1) shall become a lien upon the title to or the
626 interest in real or personal property of the person against whom
627 the warrant is issued. The sheriff to whom any such warrant is
628 directed shall proceed upon the warrant in all respects and with
629 like effect and in the same manner as prescribed by law in
630 respect to executions issued against goods and chattels upon
631 judgments by a court of record, and the sheriff shall be entitled
632 to the same fees for his or her services in executing the warrant
633 to be collected in the same manner.

634 (3) In the discretion of the division, a warrant of like
635 terms, force, and effect may be issued and directed to any
636 officer or employee of the division; and in the execution thereof
637 such officer or employee shall have all the power conferred by
638 law upon sheriffs, but shall be entitled to no fee or

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639 compensation in excess of the actual expenses paid in the
640 performance of such duty. If a warrant is returned not satisfied
641 in full, the division may from time to time issue new warrants
642 and shall also have the same remedies to enforce the amount due
643 thereunder as if the state had recovered judgment therefor and
644 execution thereon had been returned satisfied.

645 Section 15. Paragraphs (c) and (h) of subsection (1), and
646 subsection (2) of section 210.15, Florida Statutes, are amended
647 to read:

648 210.15 Permits.--

649 (1)

650 (c) No permit under this part or chapter 569 shall be
651 issued, maintained, or renewed if the applicant, its officers, or
652 any person or persons owning directly or indirectly, in the
653 aggregate, more than 10 percent of the ownership interests in the
654 applicant:

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

657 2. Had a permit revoked by the division within the previous
658 2 years;

659 3. Has been convicted of selling stolen or counterfeit
660 cigarettes, receiving stolen cigarettes, or being involved in the
661 counterfeiting of cigarettes;

662 4. Has been convicted within the past 5 years of any
663 offense against the cigarette laws of this state or convicted in
664 this state, any other state, or the United States during the past
665 5 years of any offense designated as a felony by such state or
666 the United States, or to a corporation, any of whose officers
667 have been so convicted. The term "convicted" shall include an

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668 adjudication of guilt on a plea of guilty or a plea of nolo
669 contendere, or the forfeiture of a bond when charged with a
670 crime;

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

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

678 (h) No retail sales of cigarettes may be made at a location
679 for which a wholesale dealer, distributing agent, or exporter
680 permit has been issued. The user fee ~~excise tax~~ on sales made to
681 any traveling location, such as an itinerant store or industrial
682 caterer, shall be paid into the General Revenue Fund unallocated.
683 Cigarettes may be purchased for retail purposes only from a
684 person holding a wholesale dealer permit. The invoice for the
685 purchase of cigarettes must show the place of business for which
686 the purchase is made and the cigarettes cannot be transferred to
687 any other place of business for the purpose of resale.

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

691 Section 16. Section 210.18, Florida Statutes, is amended to
692 read:

693 210.18 Penalties for user fee ~~tax~~ evasion; reports by
694 sheriffs.--

695 (1) Any person who possesses or transports any unstamped
696 packages of cigarettes upon the public highways, roads, or

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697 streets in the state for the purpose of sale; or who sells or
698 offers for sale unstamped packages of cigarettes in violation of
699 the provisions of this part; or who willfully attempts in any
700 manner to evade or defeat any user fee ~~tax~~ imposed by this part,
701 or the payment thereof, is guilty of a misdemeanor of the first
702 degree, punishable as provided in s. 775.082 or s. 775.083. Any
703 person who has been convicted of a violation of any provision of
704 the cigarette user fee ~~tax~~ law and who is thereafter convicted of
705 a further violation of the cigarette user fee ~~tax~~ law is, upon
706 conviction of such further offense, guilty of a felony of the
707 third degree, punishable as provided in s. 775.082, s. 775.083,
708 or s. 775.084.

709 (2) Except as otherwise provided in this section, any
710 person who fails, neglects, or refuses to comply with, or
711 violates the provisions of, this part or the rules adopted by the
712 division under this part commits a misdemeanor of the first
713 degree, punishable as provided in s. 775.082 or s. 775.083. Any
714 person who has been convicted of a violation of any provision of
715 the cigarette user fee ~~tax~~ law and who is thereafter convicted of
716 a further violation of the cigarette user fee ~~tax~~ law is, upon
717 conviction of such further offense, guilty of a felony of the
718 third degree, punishable as provided in s. 775.082, s. 775.083,
719 or s. 775.084.

720 (3) Any person who falsely or fraudulently makes, forges,
721 alters, or counterfeits any stamp or impression die used in meter
722 machines prescribed by the division under the provisions of this
723 part; or, with intent to evade user fees ~~taxes~~, jams, tampers
724 with, or alters such a machine; or causes or procures to be
725 falsely or fraudulently made, forged, altered, or counterfeited

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726 any such stamp or die; or knowingly and willfully utters,
727 purchases, passes or tenders as true any such false, altered, or
728 counterfeited stamp or die impression; or, with the intent to
729 defraud the state, fails to comply with any other requirement of
730 this part commits a felony of the third degree, punishable as
731 provided in s. 775.082, s. 775.083, or s. 775.084.

732 (4) (a) Any person or corporation that owns or is in
733 possession of any cigarettes upon which a user fee tax is imposed
734 by the cigarette law, or would be imposed if such cigarettes were
735 manufactured in or brought into this state in accordance with the
736 regulatory provisions of the cigarette law, and upon which such
737 user fee tax has not been paid is, in addition to the fines and
738 penalties otherwise provided in the cigarette law, personally
739 liable for the amount of the user fee tax imposed on such
740 cigarettes; and the division may collect such user fee tax from
741 such person or corporation by suit or by restitution if the
742 person taxpayer is convicted, found guilty, or pleads nolo
743 contendere or guilty to any crime under this chapter. This
744 paragraph is applicable even if adjudication is withheld.

745 (b) This subsection does not apply to a manufacturer or
746 distributor licensed under the cigarette law, to a state bonded
747 warehouse, or to a person possessing not in excess of three
748 cartons of such cigarettes, which cigarettes were purchased by
749 such possessor outside the state in accordance with the laws of
750 the place where purchased and brought into this state by such
751 possessor. The burden of proof that such cigarettes were
752 purchased outside the state and in accordance with the laws of
753 the place where purchased shall in all cases be upon the
754 possessor of such cigarettes.

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755 (5) (a) All cigarettes on which user fees ~~taxes~~ are imposed
756 by the cigarette law, or would be imposed if such cigarettes were
757 manufactured in or brought into this state in accordance with the
758 regulatory provisions of such law, which are found in the
759 possession or custody or within the control of any person for the
760 purpose of being sold or removed by him or her in fraud of the
761 cigarette law or with design to evade payment of such user fees
762 ~~taxes~~ may be seized by the division or any supervisor, sheriff,
763 deputy sheriff, or other law enforcement agent and shall be
764 forfeited to the state.

765 (b) This subsection does not apply to a person possessing
766 not in excess of three cartons of cigarettes, which cigarettes
767 were purchased by such possessor outside the state in accordance
768 with the laws of the place where purchased and brought into this
769 state by such possessor.

770 (6) (a) Every person, firm, or corporation, other than a
771 licensee under the provisions of this part, who possesses,
772 removes, deposits, or conceals, or aids in the possessing,
773 removing, depositing, or concealing of, any unstamped cigarettes
774 not in excess of 50 cartons is guilty of a misdemeanor of the
775 second degree, punishable as provided in s. 775.082 or s.
776 775.083. In lieu of the penalties provided in those sections,
777 however, the person, firm, or corporation may pay the user fee
778 ~~tax~~ plus a penalty equal to the amount of the user fee tax
779 authorized under s. 210.02 on the unstamped cigarettes.

780 (b) Every person, firm, or corporation, other than a
781 licensee under the provisions of this part, who possesses,
782 removes, deposits, or conceals, or aids in the possessing,
783 removing, depositing, or concealing of, any unstamped cigarettes

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784 in excess of 50 cartons is presumed to have knowledge that they
785 have not been assessed the user fee ~~taxed~~ and is guilty of a
786 felony of the third degree, punishable as provided in s. 775.082,
787 s. 775.083, or s. 775.084.

788 (c) This section does not apply to a person possessing not
789 in excess of three cartons of such cigarettes purchased by such
790 possessor outside the state in accordance with the laws of the
791 place where purchased and brought into this state by such
792 possessor. The burden of proof that such cigarettes were
793 purchased outside the state and in accordance with the laws of
794 the place where purchased shall in all cases be upon the
795 possessor of such cigarettes.

796 (7) Any sheriff, deputy sheriff, police officer, or state
797 law enforcement officer, upon the seizure of any unstamped
798 cigarettes under this section, shall promptly report such seizure
799 to the division or its representative, together with a
800 description of all such unstamped cigarettes seized, so that the
801 state may be kept informed as to the size and magnitude of the
802 illicit cigarette business. The division shall keep records
803 showing the number of seizures and seized cigarettes reported to,
804 or seized by, the division.

805 (8) (a) It is unlawful for any person to conspire with any
806 other person or persons to do any act in violation of the
807 provisions of this part, when any one or more of such persons
808 does or commits any act to effect the object of the conspiracy.

809 (b) Any person who violates the provisions of this
810 subsection:

811 1. If the act conspired to be done would constitute a
812 misdemeanor, is guilty of a misdemeanor of the second degree,

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813 punishable as provided in s. 775.082 or s. 775.083.

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

817 (9) Notwithstanding any other provision of law, the sale or
818 possession for sale of counterfeit cigarettes by any person or by
819 a manufacturer, importer, distributing agent, wholesale dealer,
820 or retail dealer shall result in the seizure of the product and
821 related machinery by the division or any law enforcement agency.

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

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

829 1. If the quantity of counterfeit cigarettes sold or
830 possessed with the intent to sell is less than two cartons or the
831 equivalent, the fine for a first violation shall not exceed
832 \$1,000 or five times the retail value of the counterfeit
833 cigarettes, whichever is greater. A subsequent violation may
834 result in the imposition of a fine not to exceed \$5,000 or five
835 times the retail value of the counterfeit cigarettes, whichever
836 is greater, and shall result in revocation of the retail permit
837 by the division.

838 2. If the quantity of counterfeit cigarettes sold or
839 possessed with the intent to sell is two cartons or more or the
840 equivalent, the fine for a first violation shall not exceed
841 \$2,000 or five times the retail value of the counterfeit

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842 cigarettes, whichever is greater. A subsequent violation may
843 result in the imposition of a fine not to exceed \$50,000 or five
844 times the retail value of the counterfeit cigarettes, whichever
845 is greater, and shall result in revocation of the retail permit
846 by the division.

847 (b) A person who holds a permit, other than a retail
848 permit, under the provisions of this chapter and who violates
849 this subsection commits a felony of the third degree, punishable
850 as provided in s. 775.082, s. 775.083, or s. 775.084, and is
851 subject to the imposition of fines and additional penalties as
852 follows:

853 1. If the quantity of counterfeit cigarettes sold or
854 possessed with the intent to sell is less than 10 cartons or the
855 equivalent, the fine for a first violation shall not exceed
856 \$1,000 or five times the retail value of the counterfeit
857 cigarettes, whichever is greater. A subsequent violation may
858 result in the imposition of a fine not to exceed \$5,000 or five
859 times the retail value of the counterfeit cigarettes, whichever
860 is greater, and shall result in revocation of the permit by the
861 division.

862 2. If the quantity of counterfeit cigarettes sold or
863 possessed with the intent to sell is 10 cartons or more or the
864 equivalent, the fine for a first violation shall not exceed
865 \$2,000 or five times the retail value of the counterfeit
866 cigarettes, whichever is greater. A subsequent violation may
867 result in the imposition of a fine not to exceed \$50,000 or five
868 times the retail value of the counterfeit cigarettes, whichever
869 is greater, and shall result in revocation of the permit by the
870 division.

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

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

876 210.181 Civil penalties.--

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

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

883 210.185 Prohibition on sale or distribution of cigarettes;
884 criminal penalties; administrative sanctions; applicability.--

885 (2) DOCUMENTATION.--On or before the 10th day of each
886 month, each person permitted to affix the user fee ~~tax~~ stamp to
887 cigarettes shall file with the division, for all cigarettes
888 imported into the United States to which the person has affixed
889 the user fee ~~tax~~ stamp in the preceding month, a copy of the
890 permit issued under the Internal Revenue Code, 26 U.S.C. s. 5713,
891 to the person importing the cigarettes into the United States
892 which allows that person to import those cigarettes; a copy of
893 the customs form containing, with respect to the cigarettes, the
894 internal revenue tax information required by the United States
895 Bureau of Alcohol, Tobacco and Firearms; and a statement, signed
896 by an officer of the manufacturer or importer under penalty of
897 perjury, certifying that the manufacturer or importer has
898 complied with the package health warning and ingredient reporting
899 requirements of the Federal Cigarette Labeling and Advertising

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900 Act, 15 U.S.C. ss. 1333 and 1335a, with respect to those
901 cigarettes.

902 (6) GENERAL PROVISIONS.--

903 (c) In addition to any other remedy provided by law,
904 including enforcement as provided in paragraph (a), any person
905 may bring an action for appropriate injunctive or other equitable
906 relief for a violation of this section; for actual damages, if
907 any, sustained by reason of the violation; and, as determined by
908 the court, for interest on the damages from the date of the
909 complaint, assessable ~~taxable~~ costs, and reasonable attorney's
910 fees. If the trier of fact finds that the violation is flagrant,
911 it may increase recovery to an amount not in excess of 3 times
912 the actual damages sustained by reason of the violation.

913 Section 19. Section 210.19, Florida Statutes, is amended to
914 read:

915 210.19 Records to be kept by division.--The division shall
916 keep records showing the total amount of user fees ~~taxes~~
917 collected, which records shall be open to the public during the
918 regular office hours of the division. The division shall maintain
919 records that identify which agent or wholesale dealer affixed the
920 user fee ~~tax~~ stamp to each package of cigarettes. The identifying
921 records must be made available for public inspection and retained
922 for at least 3 years.

923 Section 20. Subsection (2) of section 210.20, Florida
924 Statutes, is amended to read:

925 210.20 Employees and assistants; distribution of funds.--

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

927 1. "Agency" means the Agency for Health Care
928 Administration.

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929 2. "Cigarette user fee" means the user fee imposed by s.
 930 210.02.

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

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

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

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

938 7. "Reference year allocation" means the total amount
 939 credited or transferred from the Cigarette Tax Collection Trust
 940 Fund to a particular trust fund or the General Revenue Fund
 941 during the reference year divided by 12.

942 8. "Total base allocation" means, for a given month, 8.333
 943 percent of the average of the projected net collections for the
 944 fiscal year containing such month, based on the most recent
 945 estimates generated by a Revenue Estimating Conference convened
 946 pursuant to s. 216.136(3), or net collections for such month,
 947 whichever is less.

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

953 (c) ~~(a)~~ The division shall from month to month certify to
 954 the Chief Financial Officer the amount of net collections derived
 955 from the cigarette user fee tax imposed by s. 210.02, ~~less the~~
 956 ~~service charges provided for in s. 215.20 and less 0.9 percent of~~
 957 ~~the amount derived from the cigarette tax imposed by s. 210.02,~~

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958 ~~which shall be deposited into the Alcoholic Beverage and Tobacco~~
959 ~~Trust Fund,~~ specifying the amounts to be transferred from the
960 Cigarette Tax Collection Trust Fund and credited on the following
961 bases; however, the division shall first deposit monthly into the
962 Alcoholic Beverage and Tobacco Trust Fund an amount equal to the
963 sum of 0.9 percent of total collections and the service charge on
964 total collection provided for in s. 215.20 as follows:

965 1. The sum of 0.8345 percent ~~basis of 2.9 percent~~ of the
966 total base allocation ~~net collections~~ to the Revenue Sharing
967 Trust Fund for Counties for distribution pursuant to the Florida
968 Revenue Sharing Act.

969 2. The sum of 8.5857 percent ~~and 29.3 percent~~ of the total
970 base allocation to the Public Medical Assistance Trust Fund ~~net~~
971 ~~collections~~ for the funding of indigent health care pursuant to
972 s. 409.918 ~~to the Public Medical Assistance Trust Fund.~~

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

976 4. The sum of 4.06 percent of the total base allocation to
977 the H. Lee Moffitt Cancer Center and Research Institute
978 established in s. 1004.43, which shall be paid on a monthly basis
979 to the center's Board of Directors by warrant drawn by the Chief
980 Financial Officer upon the State Treasury. The revenues derived
981 from this allocation are separate and distinct from any funds
982 allocated to the H. Lee Moffitt Cancer Center through the James
983 and Esther King Biomedical Research Program or the Bankhead-Coley
984 Cancer Research Program. Funds derived pursuant this subparagraph
985 are to be used for the purpose of constructing, furnishing, and
986 equipping cancer research, treatment, and related facilities. The

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987 appropriation to the H. Lee Moffitt Cancer Center and Research
988 Institute authorized by this subparagraph shall not be less than
989 the amount that would have been paid to the H. Lee Moffitt and
990 Cancer Research Institute for fiscal year 2006-2007 had this
991 subparagraph been in effect.

992 5. The sum of 6.01 percent of the total base allocation to
993 the Biomedical Research Trust Fund for distribution by the
994 Biomedical Research Advisory Council to grantees of the James and
995 Esther King Biomedical Research Program authorized pursuant to s.
996 215.5602 and the Bankhead-Coley Cancer Research Program
997 authorized pursuant to s. 381.922, with such programs dividing
998 equally the allocation derived from this subparagraph. The
999 provisions of ss. 215.5602 and 381.922 shall determine the
1000 methods of distribution under the respective programs.

1001 6. The sum of 15.13 percent of the total base allocation to
1002 the Medical Care Trust Fund for the funding of the Medically
1003 Needy program established pursuant to 42 U.S.C. ss. 1396(a) and
1004 (d) and 409.904(2).

1005 7. The sum of 13.68 percent of the total base allocation
1006 to the Medical Care Trust Fund for the funding of annual
1007 adjustments to fee reimbursements made to physicians for services
1008 provided for children under the Medicaid program so that
1009 reimbursement rates for such services are made equal to the
1010 Medicaid reimbursement rates as such rates existed on January 1,
1011 2008.

1012 8. The sum of 1.01 percent of the total base allocation to
1013 the Medical Care Trust Fund for the funding of children's health
1014 care coverage through the Florida Kidcare program established in
1015 ss. 409.810-409.820. It is the intent of the Legislature to use

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1016 cigarette user fee collections to increase enrollment of
1017 previously uninsured children in the Florida Kidcare program and
1018 minimize disruption of such coverage for children at risk for
1019 involuntary or premature disenrollment from the program.

1020 Therefore, for the purposes of this subparagraph, such credits
1021 shall be made each month to the Medical Care Trust Fund as
1022 follows:

1023 a. A percentage of the total base allocation shall first be
1024 credited to fund efforts to ensure appropriate retention of
1025 coverage by, and prevention of, the involuntary or premature
1026 disenrollment from coverage for children enrolled in the Florida
1027 Kidcare program during any month in which such children are not
1028 subject to disenrollment under the laws and policies in effect,
1029 but would have been subject to disenrollment if the laws and
1030 policies governing the Florida Kidcare program in effect on June
1031 30, 2008, had remained in effect during such month. The
1032 percentage shall be determined by the agency for each fiscal year
1033 based on the estimated amount needed to fully fund such retention
1034 and prevention efforts, except that such percentage shall not
1035 exceed one-tenth of the allocation in this subparagraph and shall
1036 remain fixed throughout the fiscal year.

1037 b. A percentage of the total base allocation shall next be
1038 credited to fund the coverage of children who are enrolled in the
1039 Florida Kidcare program and covered under Title XXI of the Social
1040 Security Act during any month. The percentage shall be determined
1041 by the agency based on the estimated amount needed to fund
1042 coverage for a number of children equal to the number enrolled in
1043 the Florida Kidcare program and covered under Title XXI of the
1044 Social Security Act during such month, as certified to the Chief

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1045 Financial Officer by the agency less the number of children
1046 similarly enrolled and covered as of June 30, 2008. Such
1047 percentage shall not exceed a percentage equal to 1.01 percent
1048 less the percentage established pursuant to sub-subparagraph 8.a.

1049 9. The sum of 3.452 percent of the total base allocation
1050 for the funding of medical residency and fellowship programs, as
1051 determined by the Legislature, with primary emphasis given to the
1052 establishment of residencies in the fields of oncology,
1053 cardiology, and pulmonary medicine.

1054 10. The sum of 15.2409 percent of the total base allocation
1055 to the Medical Care Trust Fund for the funding of the MEDS-AD
1056 Waiver Program.

1057 ~~(b)1. Beginning January 1, 1999, and continuing for 10~~
1058 ~~years thereafter, the division shall from month to month certify~~
1059 ~~to the Chief Financial Officer the amount derived from the~~
1060 ~~cigarette tax imposed by s. 210.02, less the service charges~~
1061 ~~provided for in s. 215.20 and less 0.9 percent of the amount~~
1062 ~~derived from the cigarette tax imposed by s. 210.02, which shall~~
1063 ~~be deposited into the Alcoholic Beverage and Tobacco Trust Fund,~~
1064 ~~specifying an amount equal to 2.59 percent of the net~~
1065 ~~collections, and that amount shall be paid to the Board of~~
1066 ~~Directors of the H. Lee Moffitt Cancer Center and Research~~
1067 ~~Institute, established under s. 1004.43, by warrant drawn by the~~
1068 ~~Chief Financial Officer upon the State Treasury. These funds are~~
1069 ~~hereby appropriated monthly out of the Cigarette Tax Collection~~
1070 ~~Trust Fund, to be used for the purpose of constructing,~~
1071 ~~furnishing, and equipping a cancer research facility at the~~
1072 ~~University of South Florida adjacent to the H. Lee Moffitt Cancer~~
1073 ~~Center and Research Institute. In fiscal years 1999-2000 and~~

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1074 ~~thereafter with the exception of fiscal year 2008-2009, the~~
1075 ~~appropriation to the H. Lee Moffitt Cancer Center and Research~~
1076 ~~Institute authorized by this subparagraph shall not be less than~~
1077 ~~the amount that would have been paid to the H. Lee Moffitt Cancer~~
1078 ~~Center and Research Institute for fiscal year 1998-1999 had~~
1079 ~~payments been made for the entire fiscal year rather than for a~~
1080 ~~6-month period thereof.~~

1081 ~~2. Beginning July 1, 2002, and continuing through June 30,~~
1082 ~~2004, the division shall, in addition to the distribution~~
1083 ~~authorized in subparagraph 1., from month to month certify to the~~
1084 ~~Chief Financial Officer the amount derived from the cigarette tax~~
1085 ~~imposed by s. 210.02, less the service charges provided for in s.~~
1086 ~~215.20 and less 0.9 percent of the amount derived from the~~
1087 ~~cigarette tax imposed by s. 210.02, which shall be deposited into~~
1088 ~~the Alcoholic Beverage and Tobacco Trust Fund, specifying an~~
1089 ~~amount equal to 0.2632 percent of the net collections, and that~~
1090 ~~amount shall be paid to the Board of Directors of the H. Lee~~
1091 ~~Moffitt Cancer Center and Research Institute, established under~~
1092 ~~s. 1004.43, by warrant drawn by the Chief Financial Officer.~~
1093 ~~Beginning July 1, 2004, and continuing through June 30, 2016, the~~
1094 ~~division shall, in addition to the distribution authorized in~~
1095 ~~subparagraph 1., from month to month certify to the Chief~~
1096 ~~Financial Officer the amount derived from the cigarette tax~~
1097 ~~imposed by s. 210.02, less the service charges provided for in s.~~
1098 ~~215.20 and less 0.9 percent of the amount derived from the~~
1099 ~~cigarette tax imposed by s. 210.02, which shall be deposited into~~
1100 ~~the Alcoholic Beverage and Tobacco Trust Fund, specifying an~~
1101 ~~amount equal to 1.47 percent of the net collections, and that~~
1102 ~~amount shall be paid to the Board of Directors of the H. Lee~~

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1103 ~~Moffitt Cancer Center and Research Institute, established under~~
1104 ~~s. 1004.43, by warrant drawn by the Chief Financial Officer.~~
1105 ~~These funds are appropriated monthly out of the Cigarette Tax~~
1106 ~~Collection Trust Fund, to be used for the purpose of~~
1107 ~~constructing, furnishing, and equipping a cancer research~~
1108 ~~facility at the University of South Florida adjacent to the H.~~
1109 ~~Lee Moffitt Cancer Center and Research Institute. In fiscal years~~
1110 ~~2004-2005 and thereafter, the appropriation to the H. Lee Moffitt~~
1111 ~~Cancer Center and Research Institute authorized by this~~
1112 ~~subparagraph shall not be less than the amount that would have~~
1113 ~~been paid to the H. Lee Moffitt Cancer Center and Research~~
1114 ~~Institute in fiscal year 2001-2002, had this subparagraph been in~~
1115 ~~effect.~~

1116 (d) During any month, the total amount credited or
1117 transferred from the Cigarette Tax Collection Trust Fund for any
1118 of the uses provided in subparagraph (c)1., subparagraph (c)2.,
1119 or subparagraph (c)4. may not be less than the corresponding
1120 reference year allocation, otherwise, all other amounts to be
1121 transferred or credited pursuant to paragraph (c) must be reduced
1122 proportionately by the minimum amount necessary so that a
1123 reassignment of the total reduction amounts proportionately
1124 increases the amounts to be credited or transferred pursuant to
1125 subparagraph (c)1., subparagraph (c)2., or subparagraph (c)4. to
1126 their corresponding reference year allocation levels, except that
1127 if the sum of all reference year allocations exceeds the total
1128 base allocation, credits or transfers shall be made only for the
1129 latter three purposes in relatively proportionate amounts.

1130 (e) If the total base allocation for a particular month
1131 exceeds the total base allocation for any previous month within

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1132 the same fiscal year, the amounts to be credited or transferred
1133 for each of the purposes described in paragraph (c) shall be
1134 increased proportionately, subject to the availability of
1135 appropriations; however, the total supplemental allocation may
1136 not exceed an amount in accordance with the formula: SA = M x
1137 TBA(c) - TBA(i), where:

1138 1. "SA" is the maximum total supplemental allocation for
1139 the current month.

1140 2. "M" is the number of prior months in the current fiscal
1141 year.

1142 3. "TBA(c)" is the total base allocation for the current
1143 month.

1144 4. "TBA(i)" is the sum of total base allocations for all of
1145 the prior months in the current fiscal year.

1146 Section 21. Section 210.201, Florida Statutes, is amended
1147 to read:

1148 210.201 ~~Cancer facilities research facility at the~~
1149 ~~University of South Florida; establishment; funding.--The Board~~
1150 ~~of Directors of the H. Lee Moffitt Cancer Center and Research~~
1151 ~~Institute shall construct, furnish, and equip, and shall covenant~~
1152 ~~to complete, the cancer research facility at the University of~~
1153 ~~South Florida adjacent to the H. Lee Moffitt Cancer Center and~~
1154 ~~Research Institute. Moneys transferred to the Board of Directors~~
1155 ~~of the H. Lee Moffitt Cancer Center and Research Institute~~
1156 ~~pursuant to s. 210.20 shall be used to secure financing to pay or~~
1157 secure bonds or financial products issued or incurred in
1158 connection with the financing of costs related to constructing,
1159 furnishing, and equipping ~~the cancer research, treatment, and~~
1160 related facilities ~~facility~~. Such financing may include the

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1161 issuance of tax-exempt bonds or other forms of indebtedness by a
1162 local authority, municipality, or county pursuant to parts II and
1163 III of chapter 159. Such bonds shall not constitute state bonds
1164 for purposes of s. 11, Art. VII of the State Constitution, but
1165 shall constitute bonds of a "local agency," as defined in s.
1166 159.27(4). The cigarette user fee ~~tax~~ dollars pledged to the
1167 facilities ~~this facility~~ pursuant to s. 210.20 may be replaced
1168 annually by the Legislature from tobacco litigation settlement
1169 proceeds.

1170 Section 22. Subsections (1), (2), (12), (13), (14), and
1171 (15) of section 215.5602, Florida Statutes, are amended to read:

1172 215.5602 James and Esther King Biomedical Research
1173 Program.--

1174 (1) There is established within the Department of Health
1175 the James and Esther King Biomedical Research Program funded by
1176 the designated proceeds of s. 210.20(2)(c)5., as well as any
1177 prescribed portion of the Lawton Chiles Endowment Fund pursuant
1178 to s. 215.5601. The purpose of the James and Esther King
1179 Biomedical Research Program is to provide an annual and perpetual
1180 source of funding in order to support research initiatives that
1181 address the health care problems of Floridians in the areas of
1182 tobacco-related cancer, cardiovascular disease, stroke, and
1183 pulmonary disease. The long-term goals of the program are to:

1184 (a) Improve the health of Floridians by researching better
1185 prevention, diagnoses, treatments, and cures for cancer,
1186 cardiovascular disease, stroke, and pulmonary disease.

1187 (b) Expand the foundation of biomedical knowledge relating
1188 to the prevention, diagnosis, treatment, and cure of diseases
1189 related to tobacco use, including cancer, cardiovascular disease,

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1190 stroke, and pulmonary disease.

1191 (c) Improve the quality of the state's academic health
1192 centers by bringing the advances of biomedical research into the
1193 training of physicians and other health care providers.

1194 (d) Increase the state's per capita funding for research by
1195 undertaking new initiatives in public health and biomedical
1196 research that will attract additional funding from outside the
1197 state.

1198 (e) Stimulate economic activity in the state in areas
1199 related to biomedical research, such as the research and
1200 production of pharmaceuticals, biotechnology, and medical
1201 devices.

1202 (f) Expand the research capacity and infrastructure needed
1203 to conduct research on tobacco-related illnesses, with the
1204 provision of fixed capital outlay project funding as deemed
1205 appropriate by the Biomedical Research Advisory Council within
1206 the program's annual appropriation and with up to 25 percent of
1207 the program's annual funding allocation applied for this purpose
1208 by the council.

1209 (2) Funds appropriated for the James and Esther King
1210 Biomedical Research Program shall be used exclusively for the
1211 award of grants and fellowships as established in this section;
1212 for research relating to the prevention, diagnosis, treatment,
1213 and cure of diseases related to tobacco use, including cancer,
1214 cardiovascular disease, stroke, and pulmonary disease; for
1215 expenditures related to the expansion of tobacco-related research
1216 capacity and infrastructure within the state, including the
1217 provision of capital outlay costs to achieve such purpose; and
1218 for expenses incurred in the administration of this section.

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1219 Priority shall be granted to research designed to prevent or cure
1220 disease.

1221 (12) Beginning in fiscal year 2006-2007, the sum of \$6
1222 million is appropriated annually from recurring funds in the
1223 General Revenue Fund to the Biomedical Research Trust Fund within
1224 the Department of Health for purposes of the James and Esther
1225 King Biomedical Research Program pursuant to this section. From
1226 these funds up to \$1 million ~~\$250,000~~ shall be available for the
1227 operating costs of the Florida Center for Universal Research to
1228 Eradicate Disease.

1229 (13) By June 1, 2009, the Division of Statutory Revision of
1230 the Office of Legislative Services shall certify to the President
1231 of the Senate and the Speaker of the House of Representatives the
1232 language and statutory citation of this section, which is
1233 scheduled to expire January 1, 2015 ~~2011~~.

1234 (14) The Legislature shall review the performance, the
1235 outcomes, and the financial management of the James and Esther
1236 King Biomedical Research Program during the 2014 ~~2010~~ Regular
1237 Session of the Legislature and shall determine the most
1238 appropriate funding source and means of funding the program based
1239 on its review.

1240 (15) This section expires January 1, 2015 ~~2011~~, unless
1241 reviewed and reenacted by the Legislature before that date.

1242 Section 23. Subsections (1) and (2) of section 381.922,
1243 Florida Statutes, are amended, present subsections (6), (7), and
1244 (8) of that section are amended and redesignated as subsections
1245 (7), (8), and (9), respectively, and a new subsection (6) is
1246 added to that section, to read:

1247 381.922 William G. "Bill" Bankhead, Jr., and David Coley

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1248 Cancer Research Program.--

1249 (1) The William G. "Bill" Bankhead, Jr., and David Coley
1250 Cancer Research Program, which may be otherwise cited as the
1251 "Bankhead-Coley Program," is created within the Department of
1252 Health. The purpose of the program shall be to advance progress
1253 towards cures for cancer through grants awarded through a peer-
1254 reviewed, competitive process, and to expand cancer research and
1255 treatment capacity in the state.

1256 (2) The program shall provide grants for cancer research to
1257 further the search for cures for cancer, for the recruitment of
1258 cancer researchers and research teams to institutions within the
1259 state, for operational start-up grants for newly recruited cancer
1260 researchers and research teams, and for fixed capital outlay
1261 expenditures related to the expansion of cancer research and
1262 treatment capacity in Florida, with up to 25 percent of the
1263 program's annual allocation applied to these purposes.

1264 (a) Emphasis shall be given to the goals enumerated in s.
1265 381.921, as those goals support the advancement of such cures.

1266 (b) Preference may be given to grant proposals that foster
1267 collaborations among institutions, researchers, and community
1268 practitioners, as such proposals support the advancement of cures
1269 through basic or applied research, including clinical trials
1270 involving cancer patients and related networks.

1271 (6) Beginning in the 2008-2009 fiscal year, and every year
1272 thereafter, designated proceeds generated by s. 210.20(2)(c)5.
1273 shall be employed to enhance the purposes prescribed in this
1274 section.

1275 (7)(6) By June 1, 2009, the Division of Statutory Revision
1276 of the Office of Legislative Services shall certify to the

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1277 President of the Senate and the Speaker of the House of
1278 Representatives the language and statutory citation of this
1279 section, which is scheduled to expire January 1, 2015 ~~2011~~.

1280 (8) ~~(7)~~ The Legislature shall review the performance, the
1281 outcomes, and the financial management of the William G. "Bill"
1282 Bankhead, Jr., and David Coley Cancer Research Program during the
1283 2014 ~~2010~~ Regular Session of the Legislature and shall determine
1284 the most appropriate funding source and means of funding the
1285 program based on its review.

1286 (9) ~~(8)~~ This section expires January 1, 2015 ~~2011~~, unless
1287 reviewed and reenacted by the Legislature before that date.

1288 Section 24. By December 1, 2009, and before December 1 of
1289 each year thereafter, the Department of Health shall submit to
1290 the Governor, the President of the Senate, and the Speaker of the
1291 House of Representatives a report containing an estimate of the
1292 financial impact of tobacco use and related illnesses on the
1293 state's economy and its taxpayers for each of the prior 10 years,
1294 as well as an estimate of the value of cost savings associated
1295 with the expenditure of revenues generated by the cigarette user
1296 fee imposed by s. 210.02, Florida Statutes, during the same
1297 period.

1298 Section 25. This act shall take effect July 1, 2008.