



143642

LEGISLATIVE ACTION

Senate

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House

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Floor: 3/F/2R

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04/16/2009 03:09 PM

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Senator Crist moved the following:

Senate Amendment (with title amendment)

Delete lines 418 - 527

and insert:

Section 9. Subsection (5) of section 210.05, Florida Statutes, is amended to read:

210.05 Preparation and sale of stamps; discount.-

(5) Cigarettes sold to the Seminole Indian Tribe of Florida shall be administered as provided in s. 210.1801. ~~Agents or wholesale dealers may sell stamped but untaxed cigarettes to the Seminole Indian Tribe, or to members thereof, for retail sale. Agents or wholesale dealers shall treat such cigarettes and the~~



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13 ~~sale thereof in the same manner, with respect to reporting and~~
14 ~~stamping, as other sales under this part, but agents or~~
15 ~~wholesale dealers shall not collect from the purchaser the tax~~
16 ~~imposed by s. 210.02. The purchaser hereunder shall be~~
17 ~~responsible to the agent or wholesale dealer for the services~~
18 ~~and expenses incurred in affixing the stamps and accounting~~
19 ~~therefor.~~

20 Section 10. Section 210.1801, Florida Statutes, is created
21 to read:

22 210.1801 Administration of Indian-stamped cigarettes and
23 other tobacco products; penalties for possession by non-tribal
24 members.-

25 (1) Agents or wholesale dealers may sell stamped but
26 untaxed cigarettes to the Seminole Indian Tribe of Florida, or
27 to members thereof, and to the Miccosukee Tribe of Florida
28 Indians, or to members thereof, for retail sale to tribal
29 members and nontribal members who purchase cigarettes from
30 retailers or other facilities licensed to engage in the sale of
31 tobacco products which are located on tribal land. Agents or
32 wholesale dealers shall treat such cigarettes and the sale
33 thereof in a fashion that distinguishes these cigarettes from
34 those distributed or sold to and by retailers that are not
35 located on tribal land by affixing a stamp that indicates the
36 cigarettes as Indian cigarettes and agents, tribal retailer or
37 facility, or wholesale dealers shall not collect from the
38 purchaser the tax imposed by s. 210.02 or the surcharge impose
39 by s. 210.011. The purchaser which offers cigarettes for sale or
40 resell is responsible to the agent or wholesale dealer from
41 which the Indian cigarettes were purchased for the services and



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42 expenses incurred in affixing the stamps and accounting thereof.

43 (2) Agents or wholesale dealers may sell stamped but
44 untaxed tobacco products as defined by s. 210.25(11) to the
45 Seminole Indian Tribe of Florida, or to members thereof, and to
46 the Miccosukee Tribe of Florida Indians, or to members thereof,
47 for retail sale. Agents or wholesale dealers shall treat such
48 tobacco products and the sale thereof in a fashion that
49 distinguishes these tobacco products from those distributed or
50 sold to persons who are not tribal members or entities by
51 affixing a stamp that indicates the cigarettes as Indian
52 cigarettes and the tobacco products as Indian tobacco products
53 and agents, wholesale dealers, or retailers on tribal land shall
54 not collect from the purchaser the tax imposed by s. 210.02 or
55 s. 210.30, or the surcharge imposed by s. 210.011 or s. 210.211.
56 Such stamps shall identify the tribe, or member thereof, to
57 which the cigarettes are sold. The purchaser is responsible to
58 the agent or wholesale dealer for the services and expenses
59 incurred in affixing the stamps and accounting thereof.

60 (3) For purposes of this chapter, cigarettes stamped in a
61 fashion that indicates them to be Indian cigarettes shall be
62 known as "Indian cigarettes" and tobacco products that are
63 stamped in a fashion that indicates the products to be Indian
64 tobacco products shall be known as "Indian tobacco products."

65 (4) Excepting manufacturers or distributors licensed under
66 the cigarette law and state bonded warehouses, a nontribal
67 member who possesses an amount of Indian cigarettes or Indian
68 tobacco products in excess of three cartons, and which
69 cigarettes were purchased by such possessor on tribal land in
70 accordance with the laws of the place where purchased and



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71 brought into this state by such possessor, commits a misdemeanor
72 of the first degree, punishable as provided in s. 775.082 or s.
73 775.084 and is liable for a fine of \$1,000 or five times the
74 retail value of the cigarettes involved, whichever is greater.
75 The provisions of s. 210.18(4)(b) do not apply to Indian
76 cigarettes.

77 (5)(a) The division shall conduct a public-awareness
78 campaign regarding the penalties for possession of illegal
79 quantities of cigarettes or tobacco products which are purchased
80 in violation of chapter 210. A notice must be conspicuously
81 displayed in every location where cigarettes or other tobacco
82 products are sold which contains the following provision in
83 conspicuous type: INTRASTATE POSSESSION, SALE, OR TRANSPORT OF
84 CIGARETTES BEARING INDIAN STAMPS BY NONTRIBAL MEMBERS WHEN THE
85 AMOUNT POSSESSED, SOLD, OR TRANSPORTED BY A NONTRIBAL MEMBER
86 EXCEEDS THREE CARTONS OF CIGARETTES IS A FIRST DEGREE
87 MISDEMEANOR AND MAY RESULT IN IMPRISONMENT AND FINES OF \$1000 OR
88 FIVE TIMES THE RETAIL VALUE OF THE CIGARETTES OR TOBACCO
89 PRODUCTS, WHICHEVER IS GREATER." This notice must be provided at
90 the expense of the retail dealer.

91 (b) For purposes of this section, the term "intrastate
92 possession, sale, or transport" means any transaction involving
93 the acquisition, commercial trade or sale, or conveyance of
94 tobacco products which are purchased by an individual on land
95 which is not governed by the laws of this state and brought into
96 this state by such person.

97 (6)(a) A sheriff, deputy sheriff, police officer, or state
98 law enforcement officer, upon the seizure of any Indian
99 cigarettes or Indian tobacco products in the possession of non-



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100 tribal members under this section, shall promptly report the
101 seizure to the division or its representative, together with a
102 description of all such cigarettes and tobacco products seized,
103 so that the state may be kept informed as to the size and
104 magnitude of the illicit cigarette business. The division shall
105 keep records showing the number of seizures and seized
106 cigarettes reported to, or seized by, the division.

107 (b) The office of the sheriff, deputy sheriff, police
108 officer, or state law enforcement agency that conducted the
109 seizure is entitled to retain 50 percent of any fine recovered.
110 Any such funds received may be used only for purposes of
111 enhanced law enforcement activities.

112 (7) Subsections (4) and (6) do not apply to cigarette and
113 tobacco products sold to a tribe that has entered into an
114 approved compact with the state which provides for revenue
115 sharing between the tribe and the state relating to the
116 imposition and collection of the taxes imposed by ss. 210.02 and
117 210.30, and the surcharges imposed by ss. 210.011 and 210.211.
118 Any compact must at a minimum provide for the state to receive
119 as revenue sharing from the tribe the full amounts of the
120 surcharges imposed by ss. 210.011 and 210.211. Upon the approval
121 of a compact meeting the requirements of this subsection, the
122 notice required in subsection (5) shall be modified to include:
123 IT IS NOT A VIOLATION FOR NONTRIBAL MEMBERS TO POSSESS
124 CIGARETTES OR TOBACCO PRODUCTS BEARING THE STAMP OF (Insert name
125 of tribe for which compact has been established). Upon the
126 approval of a compact meeting the conditions specified above
127 with all Indian tribes, subsection (5) is no longer applicable.

128 Section 11. There is appropriated the sum of \$50,000 to the



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129 Division of Alcoholic Beverages and Tobacco of the Department of
130 Business and Professional Regulation for the purposes of
131 conducting the public awareness campaign required under s.
132 210.1801(5), Florida Statutes.

133 Section 12. This act shall take effect July 1, 2009.

134

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

136 And the title is amended as follows:

137 Delete lines 43 - 70

138 and insert:

139 delinquent payments; amending s. 210.05, F.S.;

140 conforming provisions to changes made by the act;

141 creating s. 210.1801, F.S.; providing for the

142 administration of Indian-stamped cigarettes and other

143 tobacco products; providing that agents of the

144 Division of Alcoholic Beverages and Tobacco of the

145 Department of Business and Professional Regulation or

146 wholesale dealers may sell stamped but untaxed

147 cigarettes and tobacco products to the Seminole Indian

148 Tribe of Florida and the Miccosukee Tribe of Florida

149 Indians for retail sale to tribal members; prohibiting

150 an agent or wholesale dealer from collecting from the

151 purchaser certain taxes or surcharges imposed by law;

152 requiring that cigarette and other tobacco product

153 stamps identify the tribe, or member thereof, to which

154 the cigarettes are sold; providing for

155 criminal penalties; providing for a fine; requiring the

156 division to conduct a public-awareness campaign

157 relating to the criminal possession of cigarettes or



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158 tobacco products in violation of the law; providing
159 for the content of the notice required by law;
160 defining the term "intrastate possession, sale, or
161 transport;" requiring law enforcement agencies to
162 report the seizure of Indian cigarettes or Indian
163 tobacco products by nontribal members; providing that
164 law enforcement agencies my retain a specified
165 percentage of the fines recovered from the seizures;
166 providing for an exemption applicable to signatories
167 of an approved compact that provides for revenue
168 sharing between the tribe and the state; providing for
169 an appropriation; providing an effective date.