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LEGISLATIVE ACTION

Senate

House

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Floor: 6/AD/2R

04/16/2009 03:16 PM

Senator Deutch moved the following:

Senate Amendment (with title amendment)

Delete lines 435 - 526

and insert:

Section 210.1801 Exempt cigarettes for members of
recognized Indian tribes.-

(1) Notwithstanding any provision of this chapter to the
contrary, a member of an Indian tribe recognized in this state
who purchases cigarettes on an Indian reservation for his or her
own use or consumption is exempt from paying a cigarette tax.
However, such member purchasing cigarettes off an Indian
reservation or a nontribal member purchasing cigarettes on an



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13 Indian reservation is not exempt from paying the cigarette tax
14 when purchasing cigarettes within this state. Accordingly, all
15 cigarettes sold on an Indian reservation to a nontribal member
16 shall be taxed, and evidence of such tax shall be by means of an
17 affixed cigarette tax stamp.

18 (2) In order to ensure an adequate quantity of cigarettes
19 on Indian reservations which may be purchased by tribal members
20 who are exempt from the cigarette tax, the department shall
21 provide recognized Indian tribes within this state with Indian-
22 tax-exemption coupons as set forth in this section. A
23 reservation cigarette seller shall present such Indian-tax-
24 exemption coupons to a wholesale dealer licensed in this state
25 in order to purchase stamped cigarettes that are exempt from the
26 imposition of the cigarette tax. A tribal member may purchase
27 cigarettes that are exempt from the cigarette tax from a
28 reservation cigarette seller even though such cigarettes have an
29 affixed cigarette tax stamp.

30 (3) Indian-tax-exemption coupons shall be provided to the
31 recognized governing body of each Indian tribe to ensure that
32 each Indian tribe can obtain tax-exempted cigarettes that are
33 for the use or consumption by the tribe or its members. The
34 Indian-tax-exemption coupons shall be provided to the Indian
35 tribes on a quarterly basis. It is intended that each Indian
36 tribe will distribute the Indian-tax-exemption coupons to
37 reservation cigarette sellers on such tribe's reservation. Only
38 Indian tribes or reservation cigarette sellers on their
39 reservations may redeem such Indian-tax-exemption coupons
40 pursuant to this section.

41 (a) The amount of Indian-tax-exemption coupons to be given



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42 to the recognized governing body of each Indian tribe shall be
43 based upon the probable demand of the tribal members on the
44 tribe's reservation plus the amount needed for official tribal
45 use. The annual total amount of Indian-tax-exemption coupons to
46 be given to the recognized governing body of each Indian tribe
47 shall be calculated by multiplying the number of members of the
48 tribe times five packs of cigarettes times 365.

49 (b) Each wholesale dealer shall keep records of
50 transactions involving Indian-tax-exemption coupons and shall
51 submit appropriate documentation to the department when claiming
52 a refund as set forth in this section. Documentation shall
53 contain at least the following information:

54 1. The identity of the Indian tribe to which an Indian-tax-
55 exemption coupon is issued;

56 2. The identity and the quantity of the product for which
57 an Indian-tax-exemption coupon is issued;

58 3. The date of issuance and the date of expiration of the
59 an Indian-tax-exemption coupon; and

60 4. Any other information as the commissioner may deem
61 appropriate.

62 (4) (a) An Indian tribe may purchase cigarettes for its own
63 official use or consumption from a wholesale dealer without
64 payment of the cigarette tax to the extent that the Indian tribe
65 provides the wholesale dealer with Indian-tax-exemption coupons
66 entitling the Indian tribe to purchase such quantities of
67 cigarettes as allowed by each Indian-tax-exemption coupon
68 without paying the cigarette tax.

69 (b) A tribal member may purchase cigarettes for his or her
70 own use or consumption without payment of the cigarette tax if



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71 the tribal member makes such purchase on a qualified
72 reservation.

73 (c) A reservation cigarette seller may purchase cigarettes
74 for resale without payment of the cigarette tax from a wholesale
75 dealer licensed pursuant to this chapter:

76 1. If the reservation cigarette seller brings the
77 cigarettes or causes them to be delivered onto a qualified
78 reservation for resale on the reservation;

79 2. To the extent that the reservation cigarette seller
80 provides the wholesale dealer with Indian-tax-exemption coupons
81 entitling the reservation cigarette seller to purchase such
82 quantities of cigarettes as allowed on each Indian-tax-exemption
83 coupon without paying the cigarette tax; and

84 3. If the cigarettes are affixed with a cigarette tax
85 stamp.

86 (d) A wholesale dealer shall not collect the cigarette tax
87 from any purchaser to the extent the purchaser gives the
88 wholesale dealer Indian-tax-exemption coupons that entitle the
89 purchaser to purchase such quantities of cigarettes as allowed
90 on each such Indian-tax-exemption coupon without paying the
91 cigarette tax.

92 (5) A wholesale dealer who has one or more Indian-tax-
93 exemption coupons may file a claim for a refund with respect to
94 any cigarette tax previously paid on cigarettes that the
95 wholesale dealer sold without collecting the tax because the
96 dealer accepted an Indian-tax-exemption coupon from its
97 purchaser pursuant to this section.

98 (6) If an Indian tribe enters into an agreement with the
99 state and the Legislature approves such agreement regarding the



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100 sale and distribution of cigarettes on the tribe's reservation,
101 the terms of such agreement shall take precedence over the
102 provisions of this section and exempt such tribe from taxes to
103 the extent that the taxes are specifically referred to in the
104 agreement. The sale or distribution, including transportation,
105 of any cigarettes to the tribe's reservation shall be in
106 accordance with the provisions of such agreement. This agreement
107 must provide for revenue sharing between the tribe and the state
108 relating to the imposition and collection of the taxes imposed
109 by ss. 210.02 and 210.30 and the surcharges imposed by ss.
110 210.011 and 210.211 and must at a minimum provide for the state
111 to receive as revenue sharing from the tribe the full amounts of
112 the surcharges imposed by ss. 210.011 and 210.211.

113
114

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

116 And the title is amended as follows:

117 Delete lines 45 - 69

118 and insert:

119 creating s. 210.1801, F.S.; providing that certain
120 members of an Indian tribe recognized in this state
121 are exempt from paying a cigarette tax under certain
122 conditions; providing that cigarettes sold on an
123 Indian reservation to a nontribal member are taxed;
124 providing that evidence of such tax is indicated by an
125 affixed cigarette tax stamp; requiring the department
126 to provide Indian-tax-exemption coupons; requiring a
127 reservation cigarette seller to present these coupons
128 to a wholesale dealer in order to purchase tax-



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129 exempted, stamped cigarettes; authorizing tribal
130 members to purchase tax-exempted, stamped cigarettes
131 from reservation cigarette sellers; authorizing the
132 governing bodies of Indian tribes to be provided with
133 Indian-tax-exemption coupons; authorizing Indian
134 tribes and reservation cigarette sellers to redeem
135 Indian-tax-exemption coupons; providing for the
136 calculation of the number of Indian-tax-exemption
137 coupons to be provided; requiring wholesale dealers to
138 keep records of transactions involving Indian-tax-
139 exemption coupons and to submit documentation to the
140 department; providing criteria for the documentation;
141 authorizing an Indian tribe, a tribal member, and a
142 reservation cigarette seller to purchase tax-exempted
143 cigarettes from a wholesale dealer under certain
144 conditions; prohibiting a wholesaler from collecting
145 the cigarette tax when given Indian-tax-exemption
146 coupons; authorizing a wholesale dealer to file a
147 claim for a refund with respect to a cigarette tax
148 previously paid; providing that an approved agreement
149 between an Indian tribe and the state takes precedence
150 over s. 210.1801, F.S.; requiring that the agreement
151 provide for revenue sharing between the tribe and the
152 state;