



796546

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2009	.	
	.	
	.	
	.	

The Policy and Steering Committee on Ways and Means (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete line 379

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~~



796546

12 ~~wholesale dealers may sell stamped but untaxed cigarettes to the~~
13 ~~Seminole Indian Tribe, or to members thereof, for retail sale.~~
14 ~~Agents or wholesale dealers shall treat such cigarettes and the~~
15 ~~sale thereof in the same manner, with respect to reporting and~~
16 ~~stamping, as other sales under this part, but agents or~~
17 ~~wholesale dealers shall not collect from the purchaser the tax~~
18 ~~imposed by s. 210.02. The purchaser hereunder shall be~~
19 ~~responsible to the agent or wholesale dealer for the services~~
20 ~~and expenses incurred in affixing the stamps and accounting~~
21 ~~therefor.~~

22 Section 10. Section 210.1801, Florida Statutes, is created
23 to read:

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

27 (1) Agents or wholesale dealers may sell stamped but
28 untaxed cigarettes to the Seminole Indian Tribe of Florida, or
29 to members thereof, and to the Miccosukee Tribe of Florida
30 Indians, or to members thereof, for retail sale to tribal
31 members. Agents or wholesale dealers shall treat such cigarettes
32 and the sale thereof in a fashion that distinguishes these
33 cigarettes from those distributed or sold to nontribal members
34 or entities by affixing a stamp that indicates the cigarettes as
35 Indian cigarettes and agents or wholesale dealers shall not
36 collect from the purchaser the tax imposed by s. 210.02 or the
37 surcharge impose by s. 210.011. The purchaser is responsible to
38 the agent or wholesale dealer for the services and expenses
39 incurred in affixing the stamps and accounting thereof.

40 (2) Agents or wholesale dealers may sell stamped but



796546

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

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

62 (4) Excepting manufacturers or distributors licensed under
63 the cigarette law and state bonded warehouses, a nontribal
64 member who possesses Indian cigarettes or Indian tobacco
65 products commits a misdemeanor of the first degree, punishable
66 as provided in s. 775.082 or s. 775.084 and is liable for a fine
67 of \$1,000 or five times the retail value of the cigarettes
68 involved, whichever is greater. The provisions of s.
69 210.18(4) (b) do not apply to Indian cigarettes.



796546

70 (5) The division shall conduct a public-awareness campaign
71 regarding the penalties for possession of Indian cigarettes or
72 Indian tobacco products by nontribal members. A notice must be
73 conspicuously displayed in every location where cigarettes or
74 other tobacco products are sold which contains the following
75 provision in conspicuous type: "NOTICE TO CUSTOMER: FLORIDA LAW
76 PHOHIBITS THE POSESSION OR SALE OF ANY CIGARRETES BEARING INDIAN
77 STAMPS BY NONTRIBAL MEMBERS. FLORIDA LAW ALSO PROHIBITS THE
78 POSSESSION OR SALE OF ANY TOBACCO PRODUCTS BEARING INDAIN STAMPS
79 BY NON-TRIBAL MEMBERS. VIOLATIONS OF THESE LAWS ARE A FIRST
80 DEGREE MISDEMEANOR AND MAY RESULT IN IMPRISONMENT AND FINES OF
81 \$1000 OR FIVE TIMES THE RETAIL VALUE OF THE CIGARETTES OR
82 TOBACCO PRODUCTS, WHICHEVER IS GREATER." This notice must be
83 provided at the expense of the retail dealer.

84 (6) (a) A sheriff, deputy sheriff, police officer, or state
85 law enforcement officer, upon the seizure of any Indian
86 cigarettes or Indian tobacco products in the possession of non-
87 tribal members under this section, shall promptly report the
88 seizure to the division or its representative, together with a
89 description of all such cigarettes and tobacco products seized,
90 so that the state may be kept informed as to the size and
91 magnitude of the illicit cigarette business. The division shall
92 keep records showing the number of seizures and seized
93 cigarettes reported to, or seized by, the division.

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



796546

99 (7) Subsections (4) and (6) do not apply to cigarette and
100 tobacco products sold to a tribe that has entered into an
101 approved compact with the state which provides for revenue
102 sharing between the tribe and the state relating to the
103 imposition and collection of the taxes imposed by ss. 210.02 and
104 210.30, and the surcharges imposed by ss. 210.011 and 210.211.
105 Any compact must at a minimum provide for the state to receive
106 as revenue sharing from the tribe the full amounts of the
107 surcharges imposed by ss. 210.011 and 210.211. Upon the approval
108 of a compact meeting the requirements of this subsection, the
109 notice required in subsection (5) shall be modified to include:
110 IT IS NOT A VIOLATION FOR NONTRIBAL MEMBERS TO POSSESS
111 CIGARETTES OR TOBACCO PRODUCTS BEARING THE STAMP OF (Insert name
112 of tribe for which compact has been established). Upon the
113 approval of a compact meeting the conditions specified above
114 with all Indian tribes, subsection (5) is no longer applicable.

115 Section 11. There is appropriated the sum of \$xxxxx to the
116 Division of Alcoholic Beverages and Tobacco of the Department of
117 Business and Professional Regulation for the purposes of
118 conducting the public awareness campaign required under s.
119 210.1801(5), Florida Statutes.

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

121
122 ===== T I T L E A M E N D M E N T =====

123 And the title is amended as follows:

124 Delete line 40

125 and insert:

126 amending s. 210.05, F.S.; conforming provisions to
127 changes made by the act; creating s. 210.1801, F.S.;



796546

128 providing for the administration of Indian-stamped
129 cigarettes and other tobacco products; providing that
130 agents of the Division of Alcoholic Beverages and
131 Tobacco of the Department of Business and Professional
132 Regulation or wholesale dealers may sell stamped but
133 untaxed cigarettes and tobacco products to the
134 Seminole Indian Tribe of Florida and the Miccosukee
135 Tribe of Florida Indians for retail sale to tribal
136 members; prohibiting an agent or wholesale dealer from
137 collecting from the purchaser certain taxes or
138 surcharges imposed by law; requiring that cigarette
139 and other tobacco product stamps identify the tribe,
140 or member thereof, to which the cigarettes are sold;
141 providing for criminal penalties; providing for a
142 fine; requiring the division to conduct a public-
143 awareness campaign relating to the criminal possession
144 of Indian cigarettes or Indian tobacco products by
145 nontribal members; providing for the content of the
146 notice required by law; requiring law enforcement
147 agencies to report the seizure of Indian cigarettes or
148 Indian tobacco products by nontribal members;
149 providing that law enforcement agencies may retain a
150 specified percentage of the fines recovered from the
151 seizures; providing for an exemption applicable to
152 signatories of an approved compact that provides for
153 revenue sharing between the tribe and the state;
154 providing for an appropriation; providing an effective
155 date.