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1 A bill to be entitled
 2 An act relating to the cigarette tax; creating s. 210.025,
 3 F.S.; providing for an additional tax on cigarettes;
 4 creating s. 210.205, F.S.; providing for distribution of
 5 the proceeds from the additional cigarette tax; specifying
 6 allocation of the proceeds from the additional cigarette
 7 tax to certain trust funds; providing application;
 8 specifying application of the additional tax to existing
 9 inventory; requiring persons with existing inventory to
 10 certify such inventory to the Division of Alcoholic
 11 Beverages and Tobacco of the Department of Business and
 12 Professional Regulation and remit the amount of the
 13 additional tax due on such inventory; providing for
 14 application of certain penalties and interest on
 15 delinquent taxes; providing for deposit of the proceeds
 16 from the additional tax collected on such inventory;
 17 amending ss. 210.01, 210.021, 210.04, 210.05, 210.06,
 18 210.09, and 210.18, F.S.; providing additional cross-
 19 references to conform; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 210.025, Florida Statutes, is created
 24 to read:

25 210.025 Additional cigarette tax imposed; collection.--
 26 (1) In addition to the tax imposed by s. 210.02, an excise
 27 or privilege tax is imposed upon the sale, receipt, purchase,
 28 possession, consumption, handling, distribution, and use of

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29 cigarettes in this state, in the following amounts, except as
30 hereinafter otherwise provided, for cigarettes of standard
31 dimensions:

32 (a) Upon all cigarettes weighing not more than 3 pounds
33 per thousand, 32.55 mills on each cigarette.

34 (b) Upon all cigarettes weighing more than 3 pounds per
35 thousand and not more than 6 inches long, 65.10 mills on each
36 cigarette.

37 (c) Upon all cigarettes weighing more than 3 pounds per
38 thousand and more than 6 inches long, 130.20 mills on each
39 cigarette.

40 (2) The description of cigarettes contained in paragraphs
41 (a), (b), and (c) of subsection (1) are hereby declared to be
42 standard as to dimensions for taxing purposes as provided in
43 this law and should any cigarette be received, purchased,
44 possessed, sold, offered for sale, given away, or used of a size
45 other than of standard dimensions, the same shall be taxed at
46 the rate of 2.71 cents on each such cigarette.

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

51 (a) Packages containing 10 cigarettes or less require a
52 32.55-cent tax.

53 (b) Packages containing more than 10 but not more than 20
54 cigarettes require a 65.10-cent tax.

55 (4) When cigarettes as described in paragraph (1) (b) are
56 packed in varying quantities of 20 cigarettes or less, except

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

59 (a) Packages containing 10 cigarettes or less require a
 60 65.10-cent tax.

61 (b) Packages containing more than 10 but not more than 20
 62 cigarettes require a 130.20-cent tax.

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

67 (a) Packages containing 10 cigarettes or less require a
 68 130.20-cent tax.

69 (b) Packages containing more than 10 but not more than 20
 70 cigarettes require a 264.40-cent tax.

71 (6) All provisions of this chapter apply to the additional
 72 tax imposed by this section.

73 Section 2. Section 210.205, Florida Statutes, is created
 74 to read:

75 210.205 Distribution of additional tax proceeds.--

76 (1) As collections are received by the division from the
 77 additional cigarette taxes imposed under s. 210.025, it shall
 78 pay the same into the Cigarette Tax Collection Trust Fund, and
 79 the division shall from month to month certify to the Chief
 80 Financial Officer the amount derived from the cigarette tax
 81 imposed by s. 210.025, less the service charges provided for in
 82 s. 215.20, to be allocated as follows:

83 (a) Sixty percent shall be deposited into the Lawton
 84 Chiles Endowment Fund until the amount of moneys in the fund
 85 equals \$ million.

86 (b) Twenty-five percent shall be deposited into the
 87 Primary Care Services Trust Fund in the Agency for Health Care
 88 Administration to be distributed to county health department
 89 clinics, free clinics, and federally qualified health centers.

90 (c) Three percent shall be deposited into the Domestic
 91 Violence Trust Fund in the Department of Children and Family
 92 Services.

93 (d) Ten percent shall be deposited into the Alcohol, Drug
 94 Abuse, and Mental Health Trust Fund in the Department of
 95 Children and Family Services.

96 (e) Two percent shall be deposited into the Child Welfare
 97 Training Trust Fund in the Department of Children and Family
 98 Services.

99 (2) After the amount of moneys in the Lawton Chiles
 100 Endowment Fund equals \$ million as provided in paragraph
 101 (1) (a), the division shall from month to month certify to the
 102 Chief Financial Officer the amount derived from the cigarette
 103 tax imposed by s. 210.025, less the service charges provided for
 104 in s. 215.20, to be allocated as follows:

105 (a) An amount equal to 62.5 percent shall be deposited
 106 into the Primary Care Services Trust Fund in the Agency for
 107 Health Care Administration to be distributed to county health
 108 department clinics, free clinics, and federally qualified health
 109 centers.

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110 (b) An amount equal to 7.5 percent shall be deposited into
111 the Domestic Violence Trust Fund in the Department of Children
112 and Family Services.

113 (c) Twenty-five percent shall be deposited into the
114 Alcohol, Drug Abuse, and Mental Health Trust Fund in the
115 Department of Children and Family Services.

116 (d) Five percent shall be deposited into the Child Welfare
117 Training Trust Fund in the Department of Children and Family
118 Services.

119 Section 3. The additional tax on cigarettes imposed by s.
120 210.025, Florida Statutes, also applies to inventory on hand. By
121 March 1, 2009, or the date this act becomes a law, whichever
122 occurs later, before opening for business, each manufacturer,
123 distributor, wholesaler, and vendor in this state shall take an
124 inventory of the cigarettes on hand and subject to tax under s.
125 210.02, Florida Statutes, and shall certify the amount of
126 inventory to the Division of Alcoholic Beverages and Tobacco of
127 the Department of Business and Professional Regulation on or
128 before April 20, 2009, accompanied by a certified check, money
129 order, or electronic funds transfer for the amount of the
130 additional tax imposed by s. 210.025, Florida Statutes, due upon
131 such inventory. The provisions of chapter 210, Florida Statutes,
132 relating to penalties and interest for delinquent payments shall
133 apply to this section. The proceeds of the tax upon inventory
134 imposed by this section shall be deposited into the appropriate
135 trust fund as specified in s. 210.205(1), Florida Statutes.

136 Section 4. Subsection (19) of section 210.01, Florida
137 Statutes, is amended to read:

138 210.01 Definitions.--When used in this part the following
 139 words shall have the meaning herein indicated:

140 (19) "Stamp" or "stamps" means the indicia required to be
 141 placed on cigarette packages that evidence payment of the taxes
 142 ~~tax~~ on cigarettes under ss. ~~s.~~ 210.02 and 210.025.

143 Section 5. Subsections (1) and (2) of section 210.021,
 144 Florida Statutes, are amended to read:

145 210.021 Payment of taxes by certified check or electronic
 146 funds transfer.--

147 (1) The Secretary of Business and Professional Regulation
 148 may require a dealer who sells cigarettes within the state to
 149 remit by certified check or electronic funds transfer any taxes
 150 ~~tax~~ imposed under ss. ~~s.~~ 210.02 and 210.025.

151 (2) The Secretary of Business and Professional Regulation
 152 shall require for a period not to exceed 12 months that a dealer
 153 or agent, during the dealer's or agent's initial period of
 154 licensure or appointment, remit by certified check or electronic
 155 funds transfer any taxes ~~tax~~ imposed under ss. ~~s.~~ 210.02 and
 156 210.025.

157 Section 6. Subsection (9) of section 210.04, Florida
 158 Statutes, is amended to read:

159 210.04 Construction; exemptions; collection.--

160 (9) Agents, located within or without the state, shall
 161 purchase stamps and affix such stamps in the manner prescribed
 162 to packages or containers of cigarettes to be sold, distributed,
 163 or given away within the state, in which case any dealer
 164 subsequently receiving such stamped packages of cigarettes will
 165 not be required to purchase and affix stamps on such packages of

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166 cigarettes. However, the division may, in its discretion,
 167 authorize manufacturers to distribute in the state free sample
 168 packages of cigarettes containing not less than 2 or more than
 169 20 cigarettes without affixing any tax stamps provided copies of
 170 shipping invoices on such cigarettes are furnished, and payment
 171 of all taxes imposed on such cigarettes by law is made, directly
 172 to the division not later than the 10th day of each calendar
 173 month. The tax on cigarettes in sample packages shall be based
 174 on a unit in accordance with the taxing provisions of ss. ~~§~~
 175 210.02(1) and 210.025(1).

176 Section 7. Subsection (5) of section 210.05, Florida
 177 Statutes, is amended to read:

178 210.05 Preparation and sale of stamps; discount.--

179 (5) Agents or wholesale dealers may sell stamped but
 180 untaxed cigarettes to the Seminole Indian Tribe, or to members
 181 thereof, for retail sale. Agents or wholesale dealers shall
 182 treat such cigarettes and the sale thereof in the same manner,
 183 with respect to reporting and stamping, as other sales under
 184 this part, but agents or wholesale dealers shall not collect
 185 from the purchaser the taxes ~~tax~~ imposed by ss. ~~§~~ 210.02 and
 186 210.025. The purchaser hereunder shall be responsible to the
 187 agent or wholesale dealer for the services and expenses incurred
 188 in affixing the stamps and accounting therefor.

189 Section 8. Paragraph (a) of subsection (1) of section
 190 210.06, Florida Statutes, is amended to read:

191 210.06 Affixation of stamps; presumption.--

192 (1) Every dealer within the state shall affix or cause to
 193 be affixed to such package or container of such cigarettes such

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194 stamps as are required under this section within 10 days after
 195 receipt of such products. Dealers outside this state shall affix
 196 such stamps before the shipment of cigarettes into this state.

197 (a) A tax stamp shall be applied to all cigarette packages
 198 intended for sale or distribution to consumers subject to the
 199 taxes ~~tax~~ imposed under ss. ~~s.~~ 210.02 and 210.025, except as
 200 otherwise provided in this part.

201 Section 9. Subsection (2) of section 210.09, Florida
 202 Statutes, is amended to read:

203 210.09 Records to be kept; reports to be made;
 204 examination.--

205 (2) The division is authorized to prescribe and promulgate
 206 by rules and regulations, which shall have the force and effect
 207 of the law, such records to be kept and reports to be made to
 208 the division by any manufacturer, importer, distributing agent,
 209 wholesale dealer, retail dealer, common carrier, or any other
 210 person handling, transporting or possessing cigarettes for sale
 211 or distribution within the state as may be necessary to collect
 212 and properly distribute the taxes imposed by ss. ~~s.~~ 210.02 and
 213 210.025. All reports shall be made on or before the 10th day of
 214 the month following the month for which the report is made,
 215 unless the division by rule or regulation shall prescribe that
 216 reports be made more often.

217 Section 10. Paragraph (a) of subsection (6) of section
 218 210.18, Florida Statutes, is amended to read:

219 210.18 Penalties for tax evasion; reports by sheriffs.--

220 (6) (a) Every person, firm, or corporation, other than a
 221 licensee under the provisions of this part, who possesses,

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222 | removes, deposits, or conceals, or aids in the possessing,
223 | removing, depositing, or concealing of, any unstamped cigarettes
224 | not in excess of 50 cartons is guilty of a misdemeanor of the
225 | second degree, punishable as provided in s. 775.082 or s.
226 | 775.083. In lieu of the penalties provided in those sections,
227 | however, the person, firm, or corporation may pay the tax plus a
228 | penalty equal to the amount of the taxes ~~tax~~ authorized under
229 | ss. ~~s.~~ 210.02 and 210.025 on the unstamped cigarettes.

230 | Section 11. This act shall take effect March 1, 2009.