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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2010	.	
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The Committee on Regulated Industries (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 212.05995, Florida Statutes, is created to read:

212.05995 Special provisions; smoking pipes and devices.-

(1) As used in this section, the term:

(a) "Cigarette" means any roll for smoking, except one of a roll for smoking in which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition



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13 of the material in which the roll is wrapped, and which is made
14 wholly or in part of tobacco, irrespective of size or shape and
15 whether such tobacco is flavored, adulterated or mixed with any
16 other ingredient.

17 (b) "Retail dealer" means any person located inside or
18 outside this state other than a wholesale dealer engaged in the
19 business of selling cigarettes, cigars, or tobacco products,
20 including persons issued a permit pursuant to s. 569.003.

21 (c) "Sale" means any transfer, exchange, or barter for
22 consideration. The term includes a gift by a person engaged in
23 the business of selling tobacco products in exchange for
24 advertising, a gift as a means of evading this section, or a
25 gift for any other purpose.

26 (d) "Tobacco products" means loose tobacco suitable for
27 smoking; snuff; snuff flour; cavendish; plug and twist tobacco;
28 fine cuts and other chewing tobaccos; shorts; refuse scraps;
29 clippings, cuttings, and sweepings of tobacco; and other kinds
30 and forms of tobacco prepared in such manner as to be suitable
31 for chewing.

32 (2) A surtax at the rate of 25 percent applies to the sale
33 of any of the following items, regardless of whether such items
34 are sold for legal purposes or in violation of the law:

35 (a) Metal, wooden, acrylic, glass, stone, plastic, or
36 ceramic smoking pipes, with or without screens, permanent
37 screens, or punctured metal bowls.

38 (b) Water pipes.

39 (c) Carburetion tubes and devices.

40 (d) Chamber pipes.

41 (e) Carburetor pipes.



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42 (f) Electric pipes.

43 (g) Air-driven pipes.

44 (h) Chillums.

45 (i) Bonges.

46 (j) Ice pipes or chillers.

47 (3) The surtax is in addition to all applicable taxes
48 imposed by this chapter.

49 (4) The surtax imposed by this section is due on the first
50 day of the month succeeding the month in which the surtax is
51 imposed and shall be paid on or before the 20th day of each
52 month. The surtax shall be paid to the department by electronic
53 funds transfer and shall be accompanied by a form prescribed by
54 the department and initiated by the dealer through an electronic
55 data interchange.

56 (5) Except as provided in this section, the department
57 shall administer, collect, and enforce the surtax pursuant to
58 the same procedures used in the administration, collection, and
59 enforcement of the general state sales tax imposed by this
60 chapter. The provisions of this chapter relating to interest and
61 penalties on delinquent taxes apply to the surtax. The surtax
62 may not be included in the computation of estimated taxes
63 pursuant to s. 212.11, and the dealer's credit for collecting
64 taxes or fees under s. 212.12 does not apply to the surtax.

65 (6) The department shall deposit monthly all collections it
66 receives from this surtax, less administrative costs, into the
67 Department of Corrections' Grants and Donations Trust Fund. The
68 Department of Corrections may use these funds only for its
69 substance abuse treatment programs. Administrative costs may not
70 exceed 3 percent of the collections and shall be used to pay the



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71 administrative costs incurred in the collection, administration,
72 enforcement, and distribution of the surtax.

73 (7) This section does not apply to a retail dealer that
74 derives all of its gross revenue from the sale of cigarettes,
75 cigars, tobacco products, smoking pipes that are intended to be
76 used with tobacco products, or other items that are intended to
77 be used with tobacco products which are not listed under
78 subsection (2).

79 (8) A retail dealer may not offer for sale any items listed
80 under subsection (2) unless the retail dealer has a retail
81 tobacco products dealer permit under s. 569.003. The provisions
82 of chapter 569 apply to any retail dealer that offers for sale
83 any items listed under subsection (2).

84 (9) The department may adopt rules to administer this
85 section.

86 Section 2. This act shall take effect January 1, 2011.

87
88 ===== T I T L E A M E N D M E N T =====

89 And the title is amended as follows:

90 Delete everything before the enacting clause
91 and insert:

92 A bill to be entitled
93 An act relating to the tax on sales, use, and other
94 transactions; creating s. 212.05995, F.S.; providing
95 definitions; imposing a surtax on the sale of certain
96 smoking pipes and devices; specifying the surtax is in
97 addition to all applicable sales and use taxes;
98 providing for payment of the surtax; providing for
99 administration, collection, and enforcement by the



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100 Department of Revenue; providing for the distribution
101 of the surtax proceeds to the Department of
102 Corrections for certain purposes; providing for the
103 deduction of administrative costs; providing an
104 exception from the application of the surtax;
105 prohibiting a retail dealer from selling certain
106 smoking pipes and devices unless the retail dealer has
107 a retail tobacco products dealer permit; providing for
108 the application of ch. 569, F.S., to retail dealers;
109 providing for rulemaking; providing an effective date.