

By the Committee on Regulated Industries; and Senator Wise

580-02455-10

2010366c1

1                                   A bill to be entitled  
 2           An act relating to the tax on sales, use, and other  
 3           transactions; creating s. 212.05995, F.S.; providing  
 4           definitions; imposing a surtax on the sale of certain  
 5           smoking pipes and devices; specifying the surtax is in  
 6           addition to all applicable sales and use taxes;  
 7           providing for payment of the surtax; providing for  
 8           administration, collection, and enforcement by the  
 9           Department of Revenue; providing for the distribution  
 10          of the surtax proceeds to the Department of  
 11          Corrections for certain purposes; providing for the  
 12          deduction of administrative costs; providing an  
 13          exception from the application of the surtax;  
 14          prohibiting a retail dealer from selling certain  
 15          smoking pipes and devices unless the retail dealer has  
 16          a retail tobacco products dealer permit; providing for  
 17          the application of ch. 569, F.S., to retail dealers;  
 18          providing for rulemaking; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

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

24           212.05995 Special provisions; smoking pipes and devices.-

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

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

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30 of the material in which the roll is wrapped, and which is made  
31 wholly or in part of tobacco, irrespective of size or shape and  
32 whether such tobacco is flavored, adulterated or mixed with any  
33 other ingredient.

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

38 (c) "Sale" means any transfer, exchange, or barter for  
39 consideration. The term includes a gift by a person engaged in  
40 the business of selling tobacco products in exchange for  
41 advertising, a gift as a means of evading this section, or a  
42 gift for any other purpose.

43 (d) "Tobacco products" means loose tobacco suitable for  
44 smoking; snuff; snuff flour; cavendish; plug and twist tobacco;  
45 fine cuts and other chewing tobaccos; shorts; refuse scraps;  
46 clippings, cuttings, and sweepings of tobacco; and other kinds  
47 and forms of tobacco prepared in such manner as to be suitable  
48 for chewing.

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

52 (a) Metal, wooden, acrylic, glass, stone, plastic, or  
53 ceramic smoking pipes, with or without screens, permanent  
54 screens, or punctured metal bowls.

55 (b) Water pipes.

56 (c) Carburetion tubes and devices.

57 (d) Chamber pipes.

58 (e) Carburetor pipes.

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59 (f) Electric pipes.

60 (g) Air-driven pipes.

61 (h) Chillums.

62 (i) Bongs.

63 (j) Ice pipes or chillers.

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

66 (4) The surtax imposed by this section is due on the first  
67 day of the month succeeding the month in which the surtax is  
68 imposed and shall be paid on or before the 20th day of each  
69 month. The surtax shall be paid to the department by electronic  
70 funds transfer and shall be accompanied by a form prescribed by  
71 the department and initiated by the dealer through an electronic  
72 data interchange.

73 (5) Except as provided in this section, the department  
74 shall administer, collect, and enforce the surtax pursuant to  
75 the same procedures used in the administration, collection, and  
76 enforcement of the general state sales tax imposed by this  
77 chapter. The provisions of this chapter relating to interest and  
78 penalties on delinquent taxes apply to the surtax. The surtax  
79 may not be included in the computation of estimated taxes  
80 pursuant to s. 212.11, and the dealer's credit for collecting  
81 taxes or fees under s. 212.12 does not apply to the surtax.

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

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88 administrative costs incurred in the collection, administration,  
89 enforcement, and distribution of the surtax.

90 (7) This section does not apply to a retail dealer that  
91 derives all of its gross revenue from the sale of cigarettes,  
92 cigars, tobacco products, smoking pipes that are intended to be  
93 used with tobacco products, or other items that are intended to  
94 be used with tobacco products which are not listed under  
95 subsection (2).

96 (8) A retail dealer may not offer for sale any items listed  
97 under subsection (2) unless the retail dealer has a retail  
98 tobacco products dealer permit under s. 569.003. The provisions  
99 of chapter 569 apply to any retail dealer that offers for sale  
100 any items listed under subsection (2).

101 (9) The department may adopt rules to administer this  
102 section.

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