

FOR CONSIDERATION By the Committee on Budget

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1                                   A bill to be entitled  
2           An act relating to cigarette, tobacco, and alcoholic  
3           beverage taxes; amending s. 20.165, F.S.; revising the  
4           rights of certain employees in the Department of  
5           Business and Professional Regulation; amending s.  
6           210.01, F.S.; defining the term "program";  
7           transferring and reassigning functions and  
8           responsibilities for the administration of cigarette,  
9           tobacco, and alcoholic beverage taxes from the  
10          Division of Alcoholic Beverages and Tobacco of the  
11          Department of Business and Professional Regulation to  
12          the General Tax Administration Program Office of the  
13          Department of Revenue; providing for a type two  
14          transfer of the resources associated with the  
15          administration of the taxes on cigarette and tobacco  
16          products and alcoholic beverages to the Department of  
17          Revenue; authorizing the executive director of the  
18          Department of Revenue to make organizational changes  
19          within the General Tax Administration Program Office  
20          to accommodate cigarette, tobacco, and alcoholic  
21          beverage tax administration; transferring rules;  
22          amending ss. 210.11 and 210.02, F.S.; revising  
23          provisions to conform to changes made by the act;  
24          amending s. 210.021, F.S.; requiring certain dealers  
25          who sell cigarettes to remit to the program any tax  
26          imposed by law by electronic funds transfer and to  
27          make a return in a manner that is initiated through an  
28          electronic data interchange; amending ss. 210.04,  
29          210.05, and 210.06, F.S.; revising provisions to

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30 conform to changes made by the act; amending s.  
31 210.07, F.S.; removing obsolete provisions related to  
32 cigarette vending machines; amending ss. 210.08,  
33 210.09, 210.095, 210.11, 210.12, 210.13, and 210.14,  
34 F.S.; revising provisions to conform to changes made  
35 by the act; requiring wholesale dealers to provide the  
36 program with certain information; amending s. 210.15,  
37 F.S.; providing that a permit or license to sell  
38 cigarettes may not be issued by the division to an  
39 applicant who is not a registered dealer with the  
40 program or to an applicant with an outstanding tax  
41 warrant for more than 3 months from the program;  
42 amending ss. 210.16 and 210.1605, F.S.; authorizing  
43 the division to suspend or revoke a permit or license  
44 if a tax warrant has been outstanding against the  
45 license or permitholder for more than 3 months;  
46 amending ss. 210.161, 210.18, 210.1801, 210.185, and  
47 210.20, F.S.; revising provisions to conform to  
48 changes made by the act; amending s. 210.19, F.S.;  
49 requiring that records and files of the program  
50 relating to ch. 210, F.S., be available in Tallahassee  
51 to the public at any time during business hours;  
52 requiring the program to prepare and make available a  
53 specified list and specified reports; amending s.  
54 210.25, F.S.; defining the terms "distributor,"  
55 "program," and "wholesale sales price"; amending s.  
56 210.31, F.S.; requiring that certain dealers in  
57 cigarettes remit payments by electronic funds transfer  
58 and make a return in a manner that is initiated

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59 through an electronic data interchange; amending s.  
60 210.35, F.S.; providing that a permit or license may  
61 not be issued by the division to a distributor who is  
62 not a registered dealer with the program or to a  
63 distributor who has an outstanding tax warrant for  
64 more than 3 months from the program; amending ss.  
65 210.40 and 210.45, F.S.; revising provisions to  
66 conform to changes made by the act; amending ss.  
67 210.50 and 210.51, F.S.; authorizing the division to  
68 suspend or revoke a permit or license, or to deny an  
69 application to renew a permit or license, if a tax  
70 warrant has been outstanding against the license or  
71 permitholder for more than 3 months; amending s.  
72 210.55, F.S.; requiring wholesale dealers and  
73 distributing agents to provide the program with  
74 certain specified information; amending ss. 210.60,  
75 210.65, and 210.70, F.S.; revising provisions to  
76 conform to changes made by the act; amending s.  
77 559.79, F.S.; requiring the Department of Business and  
78 Professional Regulation and the Department of Revenue  
79 to work cooperatively to establish an automated method  
80 for periodically disclosing information relating to  
81 licensees; amending s. 561.01, F.S.; defining the term  
82 "program"; creating s. 561.024, F.S.; providing that  
83 the General Tax Administration Program Office within  
84 the Department of Revenue is responsible for  
85 collecting taxes on alcoholic beverages and for  
86 distributing the funds collected; transferring and  
87 reassigning functions and responsibilities for the

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88 administration of alcoholic beverage taxes from the  
89 Department of Business and Professional Regulation to  
90 the Department of Revenue; providing for a type two  
91 transfer of the resources associated with the  
92 administration of the alcoholic beverages to the  
93 Department of Revenue; authorizing the Executive  
94 Office of the Governor, under specified conditions, to  
95 transfer funds and positions between agencies;  
96 authorizing the executive director of the Department  
97 of Revenue to make organizational changes within the  
98 General Tax Administration Program Office to  
99 accommodate cigarette, tobacco, and alcoholic beverage  
100 tax administration; prohibiting the executive director  
101 from making organizational changes after a specified  
102 date; transferring rules relating to the collection  
103 and audit of taxes on alcoholic beverages; authorizing  
104 the Department of Revenue to enforce any rule adopted  
105 by the Division of Alcoholic Beverages and Tobacco for  
106 the collection and auditing of taxes relating to  
107 alcoholic beverages; amending s. 561.051, F.S.;  
108 requiring the director of the program to promptly  
109 report and remit to the Chief Financial Officer all  
110 taxes collected by the program; amending ss. 561.08  
111 and 561.11, F.S.; revising provisions to conform to  
112 changes made by the act; amending s. 561.111, F.S.;  
113 requiring a beverage dealer who has paid a certain  
114 amount of taxes imposed under certain specified laws  
115 to remit payments by electronic funds transfer and to  
116 make a return in a manner that is initiated through an

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117 electronic data interchange; amending s. 561.15, F.S.;

118 providing that a beverage permit or license may not be

119 issued by the division to an applicant who is not a

120 registered beverage dealer with the program or to an

121 applicant who has an outstanding tax warrant for more

122 than 3 months from the program; amending ss. 561.221

123 and 561.25, F.S.; revising provisions to conform to

124 changes made by the act; amending s. 561.27, F.S.;

125 authorizing the division to deny an application to

126 renew a beverage permit or license if a tax warrant

127 from the program has been outstanding against the

128 applicant for more than 3 months; amending ss. 561.29,

129 561.37, 561.41, 561.49, and 561.50, F.S.; revising

130 provisions to conform to changes made by the act;

131 amending s. 561.55, F.S.; requiring beverage

132 manufacturers, distributors, brokers, sales agents,

133 importers, and exporters to provide the program with

134 certain specified information; amending ss. 561.57,

135 562.16, 562.20, 562.25, and 562.41, F.S.; revising

136 provisions to conform to changes made by the act;

137 amending ss. 563.01, 564.01, and 565.01, F.S.;

138 defining the term "program"; amending ss. 563.06,

139 563.07, 564.06, 565.02, 565.12, 565.13, 568.10, and

140 569.004, F.S.; revising provisions to conform to

141 changes made by the act; amending s. 569.002, F.S.;

142 defining the term "program"; amending s. 569.009,

143 F.S.; authorizing the program to adopt rules; amending

144 s. 213.05, F.S.; adding cross-references to conform to

145 changes made by the act; providing legislative

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146 findings stating that there is an immediate threat to  
147 the welfare of the state if the act is not immediately  
148 implemented; providing for the need for emergency  
149 rules; authorizing the Department of Revenue and the  
150 Department of Business and Professional Regulation to  
151 adopt emergency rules; providing an effective date.  
152

153 Be It Enacted by the Legislature of the State of Florida:  
154

155 Section 1. Paragraph (a) of subsection (9) of section  
156 20.165, Florida Statutes, is amended to read:

157 20.165 Department of Business and Professional Regulation.—  
158 There is created a Department of Business and Professional  
159 Regulation.

160 (9) (a) All employees authorized by the Division of  
161 Alcoholic Beverages and Tobacco shall have access to, and shall  
162 have the right to inspect, premises licensed by the division, ~~to~~  
163 ~~collect taxes and remit them to the officers entitled to them,~~  
164 and to examine the books and records of all licensees. The  
165 authorized employees shall require of each licensee strict  
166 compliance with the laws of this state relating to the  
167 transaction of such business.

168 Section 2. Subsection (23) is added to section 210.01,  
169 Florida Statutes, to read:

170 210.01 Definitions.—When used in this part the following  
171 words shall have the meaning herein indicated:

172 (23) "Program" means the General Tax Administration Program  
173 Office within the Department of Revenue.

174 Section 3. In order to ensure the most effective and

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175 efficient collection of taxes and notwithstanding other  
176 provisions of law to the contrary, the authority to collect  
177 taxes on cigarettes and to distribute the funds collected, as  
178 provided in chapter 210, Florida Statutes, is the responsibility  
179 of the General Tax Administration Program Office within the  
180 Department of Revenue.

181 (1) All of the statutory powers, duties and functions,  
182 records, personnel, property, and unexpended balances of  
183 appropriations, allocations, or other funds for the  
184 administration of collecting taxes on cigarettes shall be  
185 transferred by a type two transfer, as defined in s. 20.06(2),  
186 Florida Statutes, from the Department of Business and  
187 Professional Regulation to the Department of Revenue effective  
188 July 1, 2011.

189 (2) Notwithstanding ss. 216.292 and 216.351, Florida  
190 Statutes, upon approval by the Legislative Budget Committee, the  
191 Executive Office of the Governor may transfer funds and  
192 positions between agencies to implement this act.

193 (3) The executive director of the Department of Revenue may  
194 establish, abolish, or consolidate bureaus, sections, or  
195 subsections within the General Tax Administration Program  
196 Office, and may reallocate duties and functions within the  
197 program to promote effective and efficient operation of the  
198 program. This subsection is subject to the requirements of s.  
199 216.181, Florida Statutes. The executive director may not  
200 establish, abolish, or consolidate bureaus, sections, or  
201 subsections after July 1, 2012, unless such action is approved  
202 by the Legislature or by law.

203 (4) The rules relating to the collection and audit of taxes

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204 on cigarettes are transferred from the Department of Business  
205 and Professional Regulation to the Department of Revenue, which  
206 rules in effect at 11:59 p.m. on the day before this act takes  
207 effect shall become the rules of the Department of Revenue and  
208 shall remain in effect until amended or repealed in the manner  
209 provided by law. The Department of Revenue may adopt rules and  
210 forms pursuant to ss. 120.536(1) and 120.54, Florida Statutes,  
211 to administer the collection and audit of cigarette taxes under  
212 this part.

213 (5) The Division of Alcoholic Beverages and Tobacco of the  
214 Department of Business and Professional Regulation may enforce  
215 any rule adopted by the department providing collection and  
216 auditing services for taxes relating to cigarette, tobacco  
217 products, and alcoholic beverages.

218 (6) The Department of Revenue is considered to be  
219 administering a revenue law of this state when the department  
220 implements this chapter. Sections 213.015(1)-(3), (5)-(7), (9)-  
221 (19), and (21); 213.018; 213.025; 213.051; 213.053; 213.0532;  
222 213.0535; 213.055; 213.071; 213.10; 213.21(4); 213.2201; 213.23;  
223 213.24; 213.25; 213.27; 213.28; 213.285; 213.34(1), (3), and  
224 (4); 213.37; 213.50; 213.67; 213.69; 213.73; 213.733; 213.74;  
225 213.75; 213.756; and 213.75, Florida Statutes, apply to the  
226 collection of taxes on cigarette under chapter 210, Florida  
227 Statutes, by the Department of Revenue.

228 Section 4. Section 210.011, Florida Statutes, is amended to  
229 read:

230 210.011 Cigarette surcharge levied; collection.-

231 (1) A surcharge, in addition to all other taxes of every  
232 kind levied by law, is levied upon the sale, receipt, purchase,



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233 possession, consumption, handling, distribution, and use of  
234 cigarettes in this state, in the following amounts, except as  
235 otherwise provided in subsections (2)-(5), for cigarettes of  
236 standard dimensions:

237 (a) Upon all cigarettes weighing not more than 3 pounds per  
238 thousand, 5 cents on each cigarette.

239 (b) Upon all cigarettes weighing more than 3 pounds per  
240 thousand and not more than 6 inches long, 10 cents on each  
241 cigarette.

242 (c) Upon all cigarettes weighing more than 3 pounds per  
243 thousand and more than 6 inches long, 20 cents on each  
244 cigarette.

245 (2) The descriptions of cigarettes contained in subsection  
246 (1) are declared to be standard as to dimensions for the purpose  
247 of levying a surcharge as provided in this section. If any  
248 cigarette is received, purchased, possessed, sold, offered for  
249 sale, given away, or used which is of a size other than those  
250 standard dimensions, the cigarette is subject to a surcharge at  
251 the rate of 4.2 cents on each cigarette.

252 (3) When cigarettes as described in paragraph (1)(a) are  
253 packed in varying quantities of 20 cigarettes or fewer, except  
254 the manufacturer's free samples authorized under s. 210.04(9),  
255 the following rates shall govern:

256 (a) Packages containing 10 cigarettes or fewer require a  
257 surcharge of 50 cents.

258 (b) Packages containing more than 10 but not more than 20  
259 cigarettes require a surcharge of \$1.

260 (4) When cigarettes as described in paragraph (1)(b) are  
261 packed in varying quantities of 20 cigarettes or fewer, except

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

264 (a) Packages containing 10 cigarettes or fewer require a  
265 surcharge of \$1.

266 (b) Packages containing more than 10 but not more than 20  
267 cigarettes require a surcharge of \$2.

268 (5) When cigarettes as described in paragraph (1)(c) are  
269 packed in varying quantities of 20 cigarettes or fewer, except  
270 the manufacturer's free samples authorized under s. 210.04(9),  
271 the following rates shall govern:

272 (a) Packages containing 10 cigarettes or fewer require a  
273 surcharge of \$2.

274 (b) Packages containing more than 10 but not more than 20  
275 cigarettes require a surcharge of \$4.

276 (6) This surcharge shall be paid by the dealer to the  
277 program division ~~division~~ for deposit and distribution as hereinafter  
278 provided upon the first sale or transaction within the state,  
279 whether such sale or transfer is to the ultimate purchaser or  
280 consumer. The seller or dealer shall collect the surcharge from  
281 the purchaser or consumer, and the purchaser or consumer shall  
282 pay the surcharge to the seller. The seller or dealer is  
283 responsible for the collection of the surcharge and payment of  
284 the surcharge to the program division. All surcharges are due  
285 not later than the 10th day of the month following the calendar  
286 month in which they were incurred, and thereafter shall bear  
287 interest at the rate of 1 percent per month. If the amount of  
288 surcharge due for a given period is assessed without allocating  
289 it to any particular month, the interest begins accruing on the  
290 date of the assessment. Whenever cigarettes are shipped from

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291 outside the state to anyone other than a distributing agent or  
292 wholesale dealer, the person receiving the cigarettes is  
293 responsible for the surcharge on the cigarettes and payment of  
294 the surcharge to the program ~~division~~.

295 (7) It is the legislative intent that the surcharge on  
296 cigarettes be uniform throughout the state.

297 (8) The surcharge levied under this section shall be  
298 administered, collected, and enforced in the same manner as the  
299 tax imposed under s. 210.02.

300 (9) Revenue produced from the surcharge levied under this  
301 section shall be deposited into the Health Care Trust Fund  
302 within the Agency for Health Care Administration.

303 Section 5. Subsection (6) of section 210.02, Florida  
304 Statutes, is amended to read:

305 210.02 Cigarette tax imposed; collection.-

306 (6) This tax shall be paid by the dealer to the program  
307 ~~division~~ for deposit and distribution as hereinafter provided  
308 upon the first sale or transaction within the state, whether or  
309 not such sale or transfer be to the ultimate purchaser or  
310 consumer. The seller or dealer shall collect the tax from the  
311 purchaser or consumer, and the purchaser or consumer shall pay  
312 the tax to the seller. The seller or dealer is ~~shall be~~  
313 responsible for the collection of the tax and the payment of the  
314 same to the program ~~division~~. All taxes are due not later than  
315 the 10th day of the month following the calendar month in which  
316 they were incurred, and thereafter shall bear interest at the  
317 rate of 1 percent per month. If the amount of tax due for a  
318 given period is assessed without allocating it to any particular  
319 month, the interest shall begin with the date of the assessment.

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320 Whenever cigarettes are shipped from outside the state to anyone  
321 other than a distributing agent or wholesale dealer, the person  
322 receiving the cigarettes is ~~shall be~~ responsible for the tax on  
323 the said cigarettes and the payment of same to the program  
324 division.

325 Section 6. Section 210.021, Florida Statutes, is amended to  
326 read:

327 210.021 Filing of returns and payment of taxes by certified  
328 ~~check or electronic means funds transfer.~~

329 (1) ~~The Secretary of Business and Professional Regulation~~  
330 ~~may require~~ A dealer who sells cigarettes within the state and  
331 has paid \$20,000 or more in tax in the previous state fiscal  
332 year must ~~to~~ remit ~~by certified check or electronic funds~~  
333 ~~transfer~~ any tax imposed under s. 210.02 by electronic funds  
334 transfer and make a return in a manner that is initiated through  
335 an electronic data interchange.

336 (2) The provisions of this section are in addition to the  
337 requirements of s. 213.755 to file returns and remit payments to  
338 the program by electronic means. ~~The Secretary of Business and~~  
339 ~~Professional Regulation shall require for a period not to exceed~~  
340 ~~12 months that a dealer or agent, during the dealer's or agent's~~  
341 ~~initial period of licensure or appointment, remit by certified~~  
342 ~~check or electronic funds transfer any tax imposed under s.~~  
343 ~~210.02.~~

344 (3) ~~The division shall adopt rules pursuant to ss.~~  
345 ~~120.536(1) and 120.54 to administer this section.~~

346 Section 7. Subsections (6), (8), and (9) of section 210.04,  
347 Florida Statutes, are amended to read:

348 210.04 Construction; exemptions; collection.-

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349 (6) The sale of single or loose unpacked cigarettes is  
350 prohibited. The program ~~division~~ may authorize any person to  
351 give away sample packages of cigarettes, each to contain not  
352 less than two cigarettes upon which the taxes have been paid.

353 (8) Except as hereinafter provided, all agents are ~~shall be~~  
354 liable for the collection and payment of the tax imposed by this  
355 part and shall pay the tax to the program ~~division~~ by  
356 purchasing, under such regulations as it may ~~shall~~ prescribe,  
357 adhesive stamps of such design and denominations as it may ~~shall~~  
358 prescribe.

359 (9) Agents, located within or without the state, shall  
360 purchase stamps and affix such stamps in the manner prescribed  
361 to packages or containers of cigarettes to be sold, distributed,  
362 or given away within the state, in which case any dealer  
363 subsequently receiving such stamped packages of cigarettes will  
364 not be required to purchase and affix stamps on such packages of  
365 cigarettes. However, the program ~~division~~ may, in its  
366 discretion, authorize manufacturers to distribute in the state  
367 free sample packages of cigarettes containing not less than 2 or  
368 more than 20 cigarettes without affixing any surcharge and tax  
369 stamps provided copies of shipping invoices on such cigarettes  
370 are furnished, and payment of all surcharges and taxes imposed  
371 on such cigarettes by law is made, directly to the program  
372 ~~division~~ not later than the 10th day of each calendar month. The  
373 surcharge and tax on cigarettes in sample packages shall be  
374 based on a unit in accordance with the surcharges levied under  
375 s. 210.011(1) and the taxing provisions of s. 210.02(1).

376 Section 8. Subsections (2), (3), and (4) of section 210.05,  
377 Florida Statutes, are amended to read:

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378 210.05 Preparation and sale of stamps; discount.-

379 (2) The program may ~~division shall~~ prescribe, prepare, and  
380 furnish stamps of such denominations and quantities as may be  
381 necessary for the payment of the tax imposed by this part, and  
382 may from time to time and as often as it deems advisable provide  
383 for the issuance and exclusive use of stamps of a new design and  
384 forbid the use of stamps of any other design. However, all  
385 stamps prescribed by the program ~~division~~ must be designed and  
386 furnished in a fashion that permits identification of the agent  
387 or wholesale dealer that affixed the stamp to the particular  
388 package of cigarettes by means of a serial number or other mark  
389 on the stamp. The program ~~division~~ shall make provisions for the  
390 sale of such stamps at such places and at such time as it may  
391 deem necessary.

392 (3) (a) The division may appoint dealers in cigarettes,  
393 approved by the program ~~manufacturers of cigarettes~~, within or  
394 without the state as agent to buy or affix stamps to be used in  
395 paying the tax herein imposed, but an agent shall at all times  
396 have the right to appoint a person in his or her employ who is  
397 to affix the stamps to any cigarettes under the agent's control;  
398 provided, however, that any wholesale dealer in the state has  
399 ~~shall have~~ the right to buy and affix such stamps. Whenever the  
400 program ~~division~~ shall sell and deliver to any such agent or  
401 wholesaler any such stamps, such agent or wholesaler is ~~shall be~~  
402 entitled to receive as compensation for his or her services and  
403 expenses as such agent or wholesaler in affixing and accounting  
404 for the taxes represented by such stamps and to retain out of  
405 the moneys to be paid by the agent or wholesaler for such stamps  
406 a discount of 2 percent of the par value of any amount of stamps

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407 purchased during any fiscal year from July 1 through June 30 of  
408 the following year, provided the discount shall be computed on  
409 the basis of 24 cents per pack. A ~~No such~~ discount is not ~~shall~~  
410 ~~be~~ allowed to a dealer, vendor, or distributor who sells or  
411 deals in any form of candy which resembles drug paraphernalia.  
412 Stamping locations approved by the program ~~are~~ division ~~shall be~~  
413 responsible for computing the discount they receive pursuant to  
414 this paragraph, and the ~~said~~ computations shall be retained by  
415 the stamping location for a period of 5 years and shall be  
416 available to the program ~~division~~. All stamps purchased from the  
417 division under this part shall be paid for in cash on delivery,  
418 except as hereinafter provided.

419 (b) Each agent appointed by the division and approved by  
420 the program to affix stamps may ~~shall be authorized to~~ purchase  
421 stamps by furnishing an irrevocable letter of credit or  
422 unconditional guaranty contract or by executing bond with a  
423 solvent surety company qualified to do business in this state,  
424 in an amount of 110 percent of the agent's estimated tax  
425 liability for 30 days, but not less than \$2,000, conditioned  
426 upon the ~~said~~ agent paying all taxes due the state arising  
427 hereunder. This form of payment in lieu of cash on delivery or  
428 its equivalent shall not preclude supplemental purchases for  
429 cash. Payment for each month's liability is ~~shall be~~ due on or  
430 before the 10th day of the month following the month in which  
431 the stamps were sold. Default in the ~~aforsaid~~ bonding and  
432 payment provisions by any agent may result in the revocation of  
433 his or her privilege to purchase stamps except for cash on  
434 delivery for a period up to 12 months in the discretion of the  
435 program ~~division~~.

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436           (4) Upon the program's direction, the division shall ~~may in~~  
437 ~~its discretion~~ revoke the authority of any agent failing to  
438 comply with the requirements of this part or the rules adopted  
439 ~~and regulations promulgated~~ hereunder, and such agent may in  
440 addition be punished in accordance with the provisions of this  
441 part.

442           Section 9. Subsection (4) of section 210.06, Florida  
443 Statutes, is amended to read:

444           210.06 Affixation of stamps; presumption.-

445           (4) Stamps shall be affixed to each package of cigarettes  
446 of an aggregate denomination not less than the amount of the tax  
447 upon the contents therein, and shall be affixed in such manner  
448 as to be visible to the purchaser. All stamps shall be affixed  
449 in the manner prescribed by the program division. The state may  
450 not impose an additional charge on stamps for printing costs.

451           Section 10. Section 210.07, Florida Statutes, is amended to  
452 read:

453           210.07 Cigarette vending Metering ~~Metering~~ machines.-

454           ~~(1)(a) The tax may also be paid through the use of~~  
455 ~~cigarette tax stamp insignia to be applied by the use of~~  
456 ~~metering machines. The division shall prescribe and promulgate~~  
457 ~~appropriate rules and regulations governing the use of metering~~  
458 ~~machines, the procedure for the payment of such cigarette taxes~~  
459 ~~through the use thereof, requiring adequate surety bonds of the~~  
460 ~~users thereof to assure the proper use of such machines and~~  
461 ~~payment of all cigarette taxes that might come due by the users~~  
462 ~~thereof, and all other rules and regulations necessary and~~  
463 ~~proper to govern the use of same.~~

464           ~~(b) The provisions of s. 210.05(3)(a) and (b) shall be~~



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465 ~~applicable to cigarette taxes paid through the use of metering~~  
466 ~~machines.~~

467 ~~(2) All provisions of this part governing the use of~~  
468 ~~cigarette tax stamps, the compiling of records, the making of~~  
469 ~~reports, permits and revocation of permits, seizures and~~  
470 ~~forfeitures, penalties, and all other provisions pertaining to~~  
471 ~~the payment of cigarette taxes through the use of stamps, shall~~  
472 ~~likewise be applicable to the payment of said taxes through the~~  
473 ~~use of metering machines.~~

474 ~~(1)~~(3) Wholesale or retail dealers of cigarettes owning,  
475 leasing, furnishing, or operating cigarette vending machines  
476 shall affix to each such machine, in a conspicuous place, an  
477 identification sticker furnished by the division. Every sticker  
478 must ~~shall~~ show the vending machine serial number and the name  
479 and address of the cigarette wholesale or retail dealer owning,  
480 leasing, furnishing, or operating said vending machine.

481 ~~(2)~~(4) No vending machine shall be allowed to operate in  
482 the state that does not have affixed thereto the identification  
483 sticker required by this section nor shall any vending machine  
484 be allowed to operate in the state that does not display at all  
485 times at least one package of each brand of the packages located  
486 therein so the same are clearly visible and arranged in such a  
487 manner that the cigarette tax stamps or meter impressions of  
488 stamps affixed thereto are clearly visible. It is ~~shall be~~ the  
489 duty of any person, firm or corporation operating a cigarette  
490 vending machine in this state to furnish the division the  
491 location of the vending machine and to report within 30 days to  
492 the division any change of location of the vending machine.

493 Section 11. Section 210.08, Florida Statutes, is amended to

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494 read:

495 210.08 Bond for payment of taxes.—Each dealer, agent, or  
496 distributing agent shall file with the division a surety bond,  
497 certificate of deposit, or irrevocable letter of credit  
498 acceptable to the program division in an amount equal to 110  
499 percent of the estimated tax liability for 30 days, but not less  
500 than \$2,000.

501 Section 12. Section 210.09, Florida Statutes, is amended to  
502 read:

503 210.09 Records to be kept; reports to be made;  
504 examination.—

505 (1) (a) Every person who possesses ~~shall possess~~ or  
506 transports ~~transport~~ any unstamped cigarettes upon the public  
507 highways, roads, or streets of the state, is ~~shall be~~ required  
508 to have in his or her actual possession invoices or delivery  
509 tickets for such cigarettes. The absence of such invoices or  
510 delivery tickets is ~~shall be~~ prima facie evidence that the ~~such~~  
511 person is a dealer in cigarettes in this state and subject to  
512 ~~the provisions of~~ this part.

513 (b) Any person who ships unstamped cigarette packages into  
514 this state other than to a manufacturer, an importer, or a  
515 distributing agent representing a manufacturer or an importer,  
516 or dealer holding a valid, current permit pursuant to s. 210.15  
517 shall first file with the program division a notice of such  
518 shipment. This paragraph does ~~shall~~ not apply to any common or  
519 contract carrier that:

520 1. Is transporting cigarettes through this state to another  
521 location outside this state under a proper bill of lading or  
522 freight bill that states the quantity, source, and destination

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523 of such cigarettes or to cigarettes shipped or otherwise  
524 transported pursuant to s. 210.04(9); or

525 2. Does not issue paper bills of lading or freight bills  
526 and does not obtain specific information about the contents of  
527 the shipment that includes a description of the freight carried  
528 but uses electronic shipping documents as part of its ordinary  
529 course of business to provide transportation services for  
530 individually addressed packages weighing less than 150 pounds,  
531 which electronic shipping documents shall be made available for  
532 inspection upon request.

533 (c) In any case in which the division or its duly  
534 authorized agent, or any law enforcement officer of this state,  
535 has probable cause to believe that any vehicle is transporting  
536 cigarettes in violation of this part, the division, the ~~such~~  
537 agent, or the ~~such~~ law enforcement officer is authorized to stop  
538 the ~~such~~ vehicle and inspect the vehicle for contraband  
539 cigarettes.

540 (2) The program may adopt ~~division is authorized to~~  
541 ~~prescribe and promulgate by rule~~ rules and regulations, which  
542 ~~shall have the force and effect of the law,~~ such records to be  
543 kept and reports to be made to the program ~~division~~ by any  
544 manufacturer, importer, distributing agent, wholesale dealer,  
545 retail dealer, common carrier, or any other person handling,  
546 transporting or possessing cigarettes for sale or distribution  
547 within the state as may be necessary to collect and properly  
548 distribute the taxes imposed by s. 210.02. All reports shall be  
549 made on or before the 10th day of the month following the month  
550 for which the report is made, unless the program ~~division~~ by  
551 rule or regulation shall prescribe that reports be made more

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552 often.

553 (3) All manufacturers, importers, distributing agents,  
554 wholesale dealers, agents, or retail dealers shall maintain and  
555 keep for a period of 3 years at the place of business where any  
556 transaction takes place, such records of cigarettes received,  
557 sold, or delivered within the state as may be required by the  
558 program ~~division~~. The program or division or their ~~its~~ duly  
559 authorized representative is hereby authorized to examine the  
560 books, papers, invoices, and other records, the stock of  
561 cigarettes in and upon any premises where the same are placed,  
562 stored, and sold, and the equipment of any such manufacturers,  
563 importers, distributing agents, wholesale dealers, agents, or  
564 retail dealers, pertaining to the sale and delivery of  
565 cigarettes taxable under this part. To verify the accuracy of  
566 the tax imposed and assessed by this part, each person is hereby  
567 directed and required to give to the program ~~division~~ or its  
568 duly authorized representatives the means, facilities, and  
569 opportunity for such examinations as are herein provided for and  
570 required.

571 (4) (a) All persons who are either cigarette manufacturers,  
572 importers, wholesalers, or distributing agents, and agents and  
573 employees of the same, shall ~~are required to~~ keep daily sales  
574 tickets or invoices of cigarette sales and it is ~~shall be~~ the  
575 duty of these ~~said~~ persons to see that each sales ticket and  
576 invoice handled by them or on behalf of them show the correct  
577 name and address to whom sold and the number of packages or  
578 cartons of each brand sold. It is ~~shall~~ also ~~be~~ the duty of  
579 these ~~said~~ persons to see that each sales ticket or invoice  
580 correctly shows whether the same is inside or outside of a

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581 qualified municipality and if the sale is made within the limits  
582 of a qualified municipality, the correct name of the  
583 municipality must be indicated.

584 (b) The division shall suspend or revoke the license of any  
585 person who is either a cigarette wholesaler, vending machine  
586 operator, or distributing agent upon notification from the  
587 program of sufficient cause appearing that this person or his or  
588 her agent or employee has the said persons, their agents or  
589 employees have failed to keep daily sales tickets or invoices in  
590 accordance with this section.

591 (5) Common carriers in this state are required to report to  
592 the program division all packages or cartons of unstamped  
593 cigarettes which are refused by the consignee because of damage  
594 or otherwise. Authority in writing from the program division  
595 must be obtained to sell or dispose of such unstamped  
596 cigarettes. Any dealer or distributing agent, who refuses any  
597 shipment or part of a shipment of unstamped cigarettes, must  
598 show in the next monthly report to the program division the  
599 number of packages or cartons of cigarettes refused and the name  
600 of the common carrier from whom the cigarettes were refused.

601 (6) In addition to the reporting requirements in this  
602 chapter, wholesale dealers must also provide the program with  
603 information regarding sales to the retail dealers: the names,  
604 addresses, retail tobacco products dealer permit numbers, and  
605 resale certificate numbers; the invoice numbers; the dates the  
606 products were sold; the quantity of each type of product sold;  
607 and the sales price of each type of product sold on their  
608 monthly returns.

609 Section 13. Paragraph (b) of subsection (2), paragraphs (a)

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610 and (b) of subsection (6), and subsection (7) of section  
611 210.095, Florida Statutes, are amended to read:

612 210.095 Mail order, Internet, and remote sales of tobacco  
613 products; age verification.-

614 (2)

615 (b) A retailer must obtain a license from the division  
616 pursuant to the requirements of this chapter before accepting an  
617 order for a delivery sale.

618 (6) (a) Before making sales or shipping tobacco products in  
619 connection with sales, a person shall file with the program  
620 ~~division~~ a statement providing the person's name, trade name,  
621 and the address of the person's principal place of business, as  
622 well as any other place of business.

623 (b) No later than the 10th day of each month, each person  
624 who has made a sale or mailed, shipped, or otherwise delivered  
625 tobacco products in connection with any sale during the previous  
626 calendar month shall file with the program ~~division~~ a memorandum  
627 or a copy of the invoice, providing for each sale:

628 1. The name and address of the individual who submitted the  
629 order for the sale.

630 2. The name and address of the individual who accepted  
631 delivery of the tobacco products.

632 3. The name and address of the person who accepted the  
633 order for the sale of the tobacco products.

634 4. The name and address of the delivery service and the  
635 name of the individual making the delivery.

636 5. The brand or brands of the tobacco products sold in the  
637 sale.

638 6. The quantity of each brand of tobacco products sold in

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639 the sale.

640 (7) Each person accepting a purchase order for a delivery  
641 sale shall collect and remit to the program division all taxes  
642 imposed on tobacco products by this state with respect to the  
643 delivery sale. With respect to cigarettes, the collection and  
644 remission are not required if the person has obtained proof in  
645 the form of the presence of applicable tax stamps ~~or tax-exempt~~  
646 ~~stamps~~, or other proof that the taxes have already been paid to  
647 this state.

648 Section 14. Section 210.11, Florida Statutes, is amended to  
649 read:

650 210.11 Refunds; sales of stamps and payment of tax.—  
651 Whenever any cigarettes upon which stamps have been placed, ~~or~~  
652 ~~upon which the tax has been paid by metering machine,~~ have been  
653 sold and shipped into another state for sale or use therein, ~~or~~  
654 have become unfit for use and consumption or unsalable, or have  
655 been destroyed, the dealer involved is ~~shall be~~ entitled to a  
656 refund or credit of the actual amount of the tax paid with  
657 respect to such cigarettes less any discount allowed by the  
658 program division in the sale of the stamps ~~or payment of the tax~~  
659 ~~by metering machine,~~ upon receipt of satisfactory evidence of  
660 the dealer's right to receive such refund or credit, provided  
661 application for refund or credit is made within 9 months of the  
662 date the cigarettes were shipped out of the state, became unfit,  
663 or were destroyed. Only the program division shall sell, or  
664 offer for sale, any stamp or stamps issued under this part. The  
665 program division may redeem unused stamps lawfully in the  
666 possession of any person. The program division may prescribe  
667 necessary rules and regulations concerning refunds, credits,

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668 sales of stamps, and redemptions under the provisions of this  
669 part. Appropriation is hereby made out of revenues collected  
670 under this part for payment of such allowances.

671 Section 15. Subsections (1), (5), (6), (7), and (8) of  
672 section 210.12, Florida Statutes, are amended to read:

673 210.12 Seizures; forfeiture proceedings.—

674 (1) The state, acting by and through the division, may  
675 ~~shall be authorized and empowered to~~ seize, confiscate, and  
676 forfeit any cigarettes upon which taxes payable hereunder may be  
677 unpaid or that are otherwise held in violation of the  
678 requirements of this chapter, and also any vending machine or  
679 receptacle in which cigarettes upon which taxes have not been  
680 paid are held for sale, or any vending machine that does not  
681 have affixed thereto the identification sticker required by the  
682 provisions of s. 210.07, or which does not display at all times  
683 at least one package of each brand of cigarettes located therein  
684 so the same is clearly visible and arranged in such a manner  
685 that the cigarette tax stamp or meter impression of the stamp  
686 affixed thereto is clearly visible. Such seizure may be made by  
687 the division, its duly authorized representative, any sheriff or  
688 deputy sheriff, or any police officer.

689 (5) From the proceeds of any sale hereunder the program  
690 ~~division~~ shall collect the tax on the property, together with a  
691 penalty of 50 percent thereof and the costs incurred in such  
692 proceedings; the balance, if any, shall be payable by the  
693 program division to the person in whose possession the ~~said~~  
694 property was found or as the court may direct.

695 (6) The distribution by the program division of the  
696 proceeds of the sale from any cigarettes or other property that



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697 may be forfeited and confiscated hereunder shall, after the  
698 payment of expenses of such forfeiture, be governed by ~~the~~  
699 ~~provisions of~~ this part.

700 (7) A ~~No~~ sale may not ~~shall~~ be made hereunder to any person  
701 except a licensed wholesale or retail dealer authorized to  
702 engage in the sale of cigarettes under the laws of Florida. All  
703 sales shall be made to the highest and best bidder for cash. The  
704 program division shall provide for the payment of any taxes  
705 payable upon any cigarettes sold hereunder before the same are  
706 delivered to any purchaser.

707 (8) The state attorney for the judicial circuit in which  
708 such property was seized shall act as the attorney for the  
709 program and division in such confiscation and forfeiture  
710 proceedings.

711 Section 16. Section 210.13, Florida Statutes, is amended to  
712 read:

713 210.13 Determination of tax on failure to file a return.—If  
714 a dealer fails to file any return required under this part, or  
715 having filed an incorrect or insufficient return, fails to file  
716 a correct or sufficient return, as the case may require, within  
717 10 days after the giving of notice to the dealer by the program  
718 ~~Division of Alcoholic Beverages and Tobacco~~ that such return or  
719 corrected or sufficient return is required, the program division  
720 shall determine the amount of tax due by the ~~such~~ dealer any  
721 time within 3 years after the making of the earliest sale  
722 included in such determination and give written notice of such  
723 determination to such dealer. Such a determination shall finally  
724 and irrevocably fix the tax unless the dealer against whom it is  
725 assessed shall, within 30 days after the giving of notice of

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726 such determination, apply to the program ~~division~~ for a hearing  
727 with the division. Judicial review may ~~shall~~ not be granted  
728 unless the amount of tax stated in the decision, with penalties  
729 thereon, if any, shall have been first deposited with the  
730 program ~~division~~, and an undertaking or bond filed in the court  
731 in which such cause may be pending in such amount and with such  
732 sureties as the court shall approve, conditioned that if such  
733 proceeding be dismissed or the decision of the division  
734 confirmed, the applicant for review will pay all costs and  
735 charges which may accrue against the applicant in the  
736 prosecution of the proceeding. At the option of the applicant,  
737 such undertaking or bond may be in an additional sum sufficient  
738 to cover the tax, penalties, costs, and charges aforesaid, in  
739 which event the applicant shall not be required to pay such tax  
740 and penalties precedent to the granting of such review by such  
741 court.

742 Section 17. Subsections (1) and (3) of section 210.14,  
743 Florida Statutes, are amended to read:

744 210.14 Warrant for collection of taxes.—

745 (1) In addition to all other remedies for the collection of  
746 any taxes due under ~~the provisions of~~ this part, the program  
747 ~~division~~ may issue a warrant under its official seal, which  
748 warrant may be filed by the program ~~division~~ in the office of  
749 the clerk of the circuit court of any county where the  
750 delinquent taxpayer owns property. Upon presentation of the  
751 warrant, the clerk of the circuit court shall enter it in the  
752 judgment docket. The name of the person mentioned in the  
753 warrant, the amount of the tax and penalties for which the  
754 warrant was issued, and the date such copy was filed shall be

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755 included in the record of the warrant. The clerk is ~~shall be~~  
756 allowed the same fees as are allowed by law for similar services  
757 rendered in judgment execution proceedings. The warrant issued  
758 by the program division may then be directed to the sheriff of  
759 any county commanding that sheriff to levy upon and sell the  
760 goods and chattels of the specified delinquent person found  
761 within the sheriff's jurisdiction, for the payment of the amount  
762 of such delinquency plus a penalty equal to 50 percent of the  
763 amount thereof, and interest on the total at 1 percent per month  
764 and the cost of executing the warrant, and to return such  
765 warrant to the program division and to pay it the money  
766 collected by virtue thereof within 60 days after receipt of such  
767 warrant.

768 (3) In the discretion of the program division, a warrant of  
769 like terms, force, and effect may be issued and directed to any  
770 officer or employee of the program division; and in the  
771 execution thereof such officer or employee shall have all the  
772 power conferred by law upon sheriffs, but are ~~shall be~~ entitled  
773 to no fee or compensation in excess of the actual expenses paid  
774 in the performance of such duty. If a warrant is returned not  
775 satisfied in full, the program division may from time to time  
776 issue new warrants and shall also have the same remedies to  
777 enforce the amount due thereunder as if the state had recovered  
778 judgment therefor and execution thereon had been returned  
779 satisfied.

780 Section 18. Section 210.15, Florida Statutes, is amended to  
781 read:

782 210.15 Permits.—

783 (1) (a) Every person, firm, or corporation desiring to

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784 engage in business as a manufacturer, importer, exporter,  
785 distributing agent, or wholesale dealer of cigarettes within  
786 this state shall file with the division an application for a  
787 cigarette permit for each place of business located within this  
788 state or, in the absence of such place of business in this  
789 state, for wherever its principal place of business is located.  
790 Every application for a cigarette permit shall be made on forms  
791 furnished by the division and shall set forth the name under  
792 which the applicant transacts or intends to transact business,  
793 the location of the applicant's place of business within the  
794 state, if any, and such other information as the division may  
795 require. If the applicant has or intends to have more than one  
796 place of business dealing in cigarettes within this state, the  
797 application shall state the location of each place of business.  
798 If the applicant is an association, the application shall set  
799 forth the names and addresses of the persons constituting the  
800 association, and if a corporation, the names and addresses of  
801 the principal officers thereof and any other information  
802 prescribed by the division for the purpose of identification.  
803 The application shall be signed and verified by oath or  
804 affirmation by the owner, if a natural person, and in the case  
805 of an association or partnership, members or partners thereof,  
806 and in the case of a corporation, by an executive officer  
807 thereof or by any person specifically authorized by the  
808 corporation to sign the application, to which shall be attached  
809 the written evidence of this authority.

810 (b) Permits shall be issued only to persons of good moral  
811 character, who are not less than 18 years of age. Permits to  
812 corporations shall be issued only to corporations whose officers

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813 are of good moral character and not less than 18 years of age.  
814 There shall be no exemptions from the permit fees herein  
815 provided to any persons, association of persons, or corporation,  
816 any law to the contrary notwithstanding.

817 (c) A ~~Ne~~ permit under this part or chapter 569 may not  
818 ~~shall~~ be issued, maintained, or renewed if the applicant, its  
819 officers, or any person or persons owning directly or  
820 indirectly, in the aggregate, more than 10 percent of the  
821 ownership interests in the applicant:

822 1. Has been finally adjudicated as owing \$500 or more in  
823 delinquent cigarette taxes;

824 2. Had a permit revoked by the division within the previous  
825 2 years;

826 3. Has been convicted of selling stolen or counterfeit  
827 cigarettes, receiving stolen cigarettes, or being involved in  
828 the counterfeiting of cigarettes;

829 4. Has been convicted within the past 5 years of any  
830 offense against the cigarette laws of this state or convicted in  
831 this state, any other state, or the United States during the  
832 past 5 years of any offense designated as a felony by such state  
833 or the United States, or to a corporation, any of whose officers  
834 have been so convicted. The term "convicted" includes ~~shall~~  
835 ~~include~~ an adjudication of guilt on a plea of guilty or a plea  
836 of nolo contendere, or the forfeiture of a bond when charged  
837 with a crime;

838 5. Has imported, or caused to be imported, into the United  
839 States any cigarette in violation of 19 U.S.C. s. 1681a; or

840 6. Has imported, or caused to be imported, into the United  
841 States, or manufactured for sale or distribution in the United

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842 States, any cigarette that does not fully comply with the  
843 Federal Cigarette Labeling and Advertising Act (15 U.S.C. ss.  
844 1331 et seq.).

845 (d) The division may refuse to issue a permit to any  
846 person, firm, or corporation whose permit under the cigarette  
847 law has been revoked, to any corporation an officer of which has  
848 had his or her permit under the cigarette law revoked, or to any  
849 person who is or has been an officer of a corporation whose  
850 permit has been revoked under the cigarette law. Any permit  
851 issued to a firm or corporation prohibited from obtaining such  
852 permit under the cigarette law may be revoked by the division.

853 (e) Before ~~Prior to~~ an application for a distributing  
854 agent, wholesale dealer, or exporter permit is ~~being~~ approved,  
855 the applicant shall file a set of fingerprints on forms provided  
856 by the division. The applicant shall also file a set of  
857 fingerprints for any person or persons interested directly or  
858 indirectly with the applicant in the business for which the  
859 permit is being sought, when so required by the division. If the  
860 applicant or any person interested with the applicant, either  
861 directly or indirectly, in the business for which the permit is  
862 sought shall be such a person as is within the definition of  
863 persons to whom a permit shall be denied, then the application  
864 may be denied by the division. If the applicant is a  
865 partnership, all members of the partnership are required to file  
866 said fingerprints, or if a corporation, all principal officers  
867 of the corporation are required to file said fingerprints. The  
868 cigarette permit for a manufacturer, importer, distributing  
869 agent, wholesale dealer, or exporter shall be originally issued  
870 at a fee of \$100, which sum is to cover the cost of the

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871 investigation required before issuing such permit.

872 (f) The cigarette permits issued under this section shall  
873 be renewed from year to year at an annual cost of \$100, on or  
874 before July 1, upon making application to the division and upon  
875 payment of the annual renewal fee.

876 (g) Permittees, by acceptance of their permits, agree that  
877 their places of business or vehicles transporting cigarettes are  
878 ~~shall~~ always be subject to be inspected and searched without a  
879 search warrant for the purpose of ascertaining that all  
880 provisions of this part are complied with by authorized  
881 employees of the division and also by sheriffs, deputy sheriffs,  
882 and police officers during business hours or during any other  
883 time such premises are occupied by the permittee or other  
884 persons. Retail cigarette dealers and manufacturers'  
885 representatives, by dealing in cigarettes, agree that their  
886 places of business or vehicles transporting cigarettes shall  
887 always be subject to inspection and search without a search  
888 warrant for the purpose of ascertaining that all provisions of  
889 this part are complied with by authorized employees of the  
890 division and also by sheriffs, deputy sheriffs, and police  
891 officers during business hours or other times when the premises  
892 are occupied by the retail dealer or manufacturers'  
893 representatives or other persons.

894 (h) ~~No~~ Retail sales of cigarettes may not be made at a  
895 location for which a wholesale dealer, distributing agent, or  
896 exporter permit has been issued. The excise tax on sales made to  
897 any traveling location, such as an itinerant store or industrial  
898 caterer, shall be paid into the General Revenue Fund  
899 unallocated. Cigarettes may be purchased for retail purposes

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900 only from a person holding a wholesale dealer permit. The  
901 invoice for the purchase of cigarettes must show the place of  
902 business for which the purchase is made and the cigarettes  
903 cannot be transferred to any other place of business for the  
904 purpose of resale.

905 (i) A permit or license may not be issued by the division  
906 to an applicant who is not a registered dealer with the program  
907 or to an applicant with an outstanding tax warrant for more than  
908 3 months from the program.

909 (2) The program ~~division~~ may not furnish stamps ~~or approve~~  
910 ~~the use of meter machines~~ to evidence the payment of the taxes  
911 on cigarettes except to qualified wholesale dealers.

912 (3) Upon approval of the application, the division shall  
913 grant and issue to each applicant a cigarette permit for each  
914 place of business set forth in the application. Cigarette  
915 permits are ~~shall~~ not be assignable and are ~~shall be~~ valid only  
916 for the persons in whose names issued and for the transaction of  
917 business at the places designated therein and shall at all times  
918 be conspicuously displayed at the places for which issued.

919 (4) All permits of distributing agents, wholesale dealers,  
920 or exporters shall remain in force and effect until July 1  
921 following their issuance, or until suspended or revoked for  
922 cause by the division, or surrendered by the permit holder.

923 (5) Whenever any permit issued under ~~the provisions of this~~  
924 part is destroyed or lost, the holder thereof shall immediately  
925 make application for a duplicate permit on a form prescribed by  
926 the division, which application shall be filed with the  
927 division. The ~~said~~ application shall be under oath and shall  
928 state that the applicant is a holder of a valid permit which has



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929 been destroyed or lost as the case may be and that the ~~said~~  
930 permit has not been suspended or revoked for cause by the  
931 division or surrendered by the permitholder.

932 (6) Applicants for a permit hereunder, by the acceptance of  
933 such permit, agree that their places of business covered by such  
934 permit are ~~shall always be~~ subject to be inspected and searched  
935 without search warrant by the division or any of its authorized  
936 assistants and also by sheriffs, deputy sheriffs or police  
937 officers.

938 (7) The division shall adopt ~~promulgate suitable~~ rules to  
939 administer ~~for carrying out the provisions of~~ this section.

940 (8) Every person, firm, corporation, or business entity who  
941 deals in, or sells, stores, or operates as a wholesale dealer  
942 in, cigarettes, or who acts as a cigarette distributing agent or  
943 exporter in any manner whatsoever, and who does so without a  
944 cigarette permit as required by this section commits ~~is guilty~~  
945 ~~of~~ a misdemeanor of the first degree, punishable as provided in  
946 s. 775.082 or s. 775.083.

947 Section 19. Section 210.16, Florida Statutes, is amended to  
948 read:

949 210.16 Revocation or suspension of permit.-

950 (1) The Division of Alcoholic Beverages and Tobacco may ~~is~~  
951 ~~given full power and authority to~~ revoke the permit of any  
952 person receiving a permit to engage in business under this part  
953 or chapter 569 for violation of any of the provisions of this  
954 part or chapter 569.

955 (2) The division shall revoke the permit or permits of any  
956 person who would be ineligible to obtain a new license or renew  
957 a license by reason of any of the conditions for permitting

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958 provided in s. 210.15(1)(c)1.-6.

959 (3) The division may suspend for a reasonable period of  
960 time or revoke, in its discretion, the permits issued under ~~the~~  
961 ~~provisions of~~ this part or chapter 569 to any person who has  
962 violated any other provision of this part or chapter 569.

963 (4) A ~~No~~ person whose permit for any place of business has  
964 been revoked may not ~~shall~~ engage in business under this part or  
965 chapter 569 at such place of business after such revocation  
966 until a new permit is issued. A ~~No~~ person whose permit for any  
967 place of business has been revoked is not ~~shall be~~ permitted to  
968 have the said permit renewed, or to obtain an additional  
969 cigarette permit for any other place of business, for a period  
970 of 2 years after the date such revocation becomes final.

971 (5) In addition to the suspension or revocation of permits,  
972 the division may impose civil penalties against holders of  
973 permits for violations of this part or rules ~~and regulations~~  
974 relating thereto. A ~~No~~ civil penalty so imposed may not ~~shall~~  
975 exceed \$2,500 for each offense, and all amounts collected shall  
976 be deposited with the Chief Financial Officer to the credit of  
977 the General Revenue Fund. If the holder of the permit fails to  
978 pay the civil penalty, his or her permit shall be suspended for  
979 such period of time as the division may specify.

980 (6) The division may suspend or revoke a permit or license  
981 if a tax warrant issued by the Department of Revenue has been  
982 outstanding against the license or permitholder for more than 3  
983 months.

984 Section 20. Section 210.1605, Florida Statutes, is amended  
985 to read:

986 210.1605 Renewal of permit.-

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987 (1) A permit may be renewed after its expiration only by  
988 filing with the division a delinquent application for approval  
989 and upon payment of a penalty of \$20 for each month or part of a  
990 month of such delinquency. A permit not renewed within 60 days  
991 after its expiration date shall be canceled by the division  
992 unless the permit is involved in litigation. However, the  
993 division may allow a permittee to renew a permit after the 60-  
994 day period for good and sufficient cause.

995 (2) The division may deny an application to renew a permit  
996 or license if a tax warrant from the program has been  
997 outstanding against the applicant for more than 3 months.

998 (3)~~(2)~~ Any fee or penalty collected under the provisions of  
999 this section shall be deposited into the Alcoholic Beverage and  
1000 Tobacco Trust Fund.

1001 Section 21. Section 210.161, Florida Statutes, is amended  
1002 to read:

1003 210.161 Examination of records.—The program and division,  
1004 or any employee designated by it, may ~~shall have the power and~~  
1005 ~~authority to~~ examine ~~into~~ the business, books, records, and  
1006 accounts of any permittee and ~~to~~ issue subpoenas to the said  
1007 permittee or any other person from whom information is desired  
1008 and to take depositions of witnesses within or without the  
1009 state. The program and division, or any employee designated by  
1010 it, may administer oaths and issue subpoenas. The provisions of  
1011 the civil law of the state in relation to enforcing obedience to  
1012 a subpoena lawfully issued by a judge or other person duly  
1013 authorized to issue subpoenas in civil cases shall apply to a  
1014 subpoena issued by the program or division, or any employee  
1015 designated by it, as authorized in this section, and may be

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1016 enforced by writ of attachment to be issued by the program or  
1017 division, or any employee designated by it, for such witness to  
1018 compel him or her to attend before the program or division, or  
1019 any employee designated by it, and give testimony and to bring  
1020 and produce such books, papers, and documents as may be required  
1021 for examination. The program or division, or any employee  
1022 designated by it, may punish any willful refusal to so appear or  
1023 give testimony by citation of any witness before the circuit  
1024 court which shall punish such witness for contempt as in cases  
1025 of refusal to obey the orders and process of the circuit court.  
1026 The program or division may in such cases pay such attendance  
1027 and mileage fees as are permitted to witnesses in civil cases  
1028 appearing before the circuit court.

1029 Section 22. Section 210.18, Florida Statutes, is amended to  
1030 read:

1031 210.18 Penalties for tax evasion; reports by sheriffs.—

1032 (1) Any person who possesses or transports any unstamped  
1033 packages of cigarettes upon the public highways, roads, or  
1034 streets in the state for the purpose of sale; or who sells or  
1035 offers for sale unstamped packages of cigarettes in violation of  
1036 ~~the provisions of~~ this part; or who willfully attempts in any  
1037 manner to evade or defeat any tax imposed by this part, or the  
1038 payment thereof, commits ~~is guilty of~~ a misdemeanor of the first  
1039 degree, punishable as provided in s. 775.082 or s. 775.083. Any  
1040 person who has been convicted of a violation of ~~any provision of~~  
1041 the cigarette tax law and who is thereafter convicted of a  
1042 subsequent ~~further~~ violation of the cigarette tax law is, upon  
1043 conviction of such further offense, guilty of a felony of the  
1044 third degree, punishable as provided in s. 775.082, s. 775.083,

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1045 or s. 775.084.

1046 (2) Except as otherwise provided in this section, any  
1047 person who fails, neglects, or refuses to comply with, or  
1048 violates the provisions of, this part or the rules adopted by  
1049 the program or division under this part commits a misdemeanor of  
1050 the first degree, punishable as provided in s. 775.082 or s.  
1051 775.083. Any person who has been convicted of a violation ~~of any~~  
1052 ~~provision~~ of the cigarette tax law and who is thereafter  
1053 convicted of a further violation of the cigarette tax law is,  
1054 upon conviction of such further offense, guilty of a felony of  
1055 the third degree, punishable as provided in s. 775.082, s.  
1056 775.083, or s. 775.084.

1057 (3) Any person who falsely or fraudulently makes, forges,  
1058 alters, or counterfeits any stamp ~~or impression die used in~~  
1059 ~~meter machines~~ prescribed by the program ~~division~~ under the  
1060 provisions of this part; or, with intent to evade taxes, jams,  
1061 tampers with, or alters such a machine; or causes or procures to  
1062 be falsely or fraudulently made, forged, altered, or  
1063 counterfeited any such stamp or die; or knowingly and willfully  
1064 utters, purchases, passes or tenders as true any such false,  
1065 altered, or counterfeited stamp or die impression; or, with the  
1066 intent to defraud the state, fails to comply with any other  
1067 requirement of this part commits a felony of the third degree,  
1068 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1069 (4) (a) Any person or corporation that owns or is in  
1070 possession of any cigarettes upon which a tax is imposed by the  
1071 cigarette law, or would be imposed if such cigarettes were  
1072 manufactured in or brought into this state in accordance with  
1073 the regulatory provisions of the cigarette law, and upon which

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1074 such tax has not been paid is, in addition to the fines and  
1075 penalties otherwise provided in the cigarette law, personally  
1076 liable for the amount of the tax imposed on such cigarettes; and  
1077 the program ~~division~~ may collect such tax from such person or  
1078 corporation by suit or by restitution if the taxpayer is  
1079 convicted, found guilty, or pleads nolo contendere or guilty to  
1080 any crime under this chapter. This paragraph is applicable even  
1081 if adjudication is withheld.

1082 (b) This subsection does not apply to a manufacturer or  
1083 distributor licensed under the cigarette law, to a state bonded  
1084 warehouse, or to a person possessing not in excess of three  
1085 cartons of such cigarettes, which cigarettes were purchased by  
1086 such possessor outside the state in accordance with the laws of  
1087 the place where purchased and brought into this state by such  
1088 possessor. The burden of proof that such cigarettes were  
1089 purchased outside the state and in accordance with the laws of  
1090 the place where purchased shall in all cases be upon the  
1091 possessor of such cigarettes.

1092 (5) (a) All cigarettes on which taxes are imposed by the  
1093 cigarette law, or would be imposed if such cigarettes were  
1094 manufactured in or brought into this state in accordance with  
1095 the regulatory provisions of such law, which are found in the  
1096 possession or custody or within the control of any person for  
1097 the purpose of being sold or removed by him or her in fraud of  
1098 the cigarette law or with design to evade payment of such taxes  
1099 may be seized by the division or any supervisor, sheriff, deputy  
1100 sheriff, or other law enforcement agent and shall be forfeited  
1101 to the state.

1102 (b) This subsection does not apply to a person possessing

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1103 not in excess of three cartons of cigarettes, which cigarettes  
1104 were purchased by such possessor outside the state in accordance  
1105 with the laws of the place where purchased and brought into this  
1106 state by such possessor.

1107 (6) (a) Every person, firm, or corporation, other than a  
1108 licensee under ~~the provisions of~~ this part, who possesses,  
1109 removes, deposits, or conceals, or aids in the possessing,  
1110 removing, depositing, or concealing of, any unstamped cigarettes  
1111 is presumed to have knowledge that they have not been taxed and  
1112 commits a felony of the third degree, punishable as provided in  
1113 s. 775.082, s. 775.083, or s. 775.084.

1114 (b) This section does not apply to a person possessing not  
1115 in excess of three cartons of such cigarettes purchased by such  
1116 possessor outside the state in accordance with the laws of the  
1117 place where purchased and brought into this state by such  
1118 possessor. The burden of proof that such cigarettes were  
1119 purchased outside the state and in accordance with the laws of  
1120 the place where purchased shall in all cases be upon the  
1121 possessor of such cigarettes.

1122 (7) Any sheriff, deputy sheriff, police officer, or state  
1123 law enforcement officer, upon the seizure of any unstamped  
1124 cigarettes under this section, shall promptly report such  
1125 seizure to the division or its representative, together with a  
1126 description of all such unstamped cigarettes seized, so that the  
1127 state may be kept informed as to the size and magnitude of the  
1128 illicit cigarette business. The division shall keep records  
1129 showing the number of seizures and seized cigarettes reported  
1130 to, or seized by, the division.

1131 (8) (a) A ~~It is unlawful for any person~~ may not ~~to~~ conspire

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1132 with any other person or persons to do any act in violation of  
1133 ~~the provisions of~~ this part, when any one or more of such  
1134 persons does or commits any act to effect the object of the  
1135 conspiracy.

1136 (b) Any person who violates ~~the provisions of~~ this  
1137 subsection:

1138 1. If the act conspired to be done would constitute a  
1139 misdemeanor, commits ~~is guilty of~~ a misdemeanor of the second  
1140 degree, punishable as provided in s. 775.082 or s. 775.083.

1141 2. If the act conspired to be done would constitute a  
1142 felony, commits ~~is guilty of~~ a felony of the third degree,  
1143 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1144 (9) Notwithstanding any other ~~provision of~~ law, the sale or  
1145 possession for sale of counterfeit cigarettes by any person or  
1146 by a manufacturer, importer, distributing agent, wholesale  
1147 dealer, or retail dealer shall result in the seizure of the  
1148 product and related machinery by the division or any law  
1149 enforcement agency.

1150 (10) A person may not ~~It is unlawful to~~ sell or possess  
1151 with the intent to sell counterfeit cigarettes, as defined in s.  
1152 210.01(22).

1153 (a) A person who does not hold a permit or holds a retail  
1154 permit under ~~the provisions of~~ this chapter and who violates  
1155 this subsection commits a felony of the third degree, punishable  
1156 as provided in s. 775.082, s. 775.083, or s. 775.084, and is  
1157 subject to the imposition of fines and additional penalties as  
1158 follows:

1159 1. If the quantity of counterfeit cigarettes sold or  
1160 possessed with the intent to sell is less than two cartons or



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1161 the equivalent, the fine for a first violation shall not exceed  
1162 \$1,000 or five times the retail value of the counterfeit  
1163 cigarettes, whichever is greater. A subsequent violation may  
1164 result in the imposition of a fine not to exceed \$5,000 or five  
1165 times the retail value of the counterfeit cigarettes, whichever  
1166 is greater, and shall result in revocation of the retail permit  
1167 by the division.

1168 2. If the quantity of counterfeit cigarettes sold or  
1169 possessed with the intent to sell is two cartons or more or the  
1170 equivalent, the fine for a first violation shall not exceed  
1171 \$2,000 or five times the retail value of the counterfeit  
1172 cigarettes, whichever is greater. A subsequent violation may  
1173 result in the imposition of a fine not to exceed \$50,000 or five  
1174 times the retail value of the counterfeit cigarettes, whichever  
1175 is greater, and shall result in revocation of the retail permit  
1176 by the division.

1177 (b) A person who holds a permit, other than a retail  
1178 permit, under ~~the provisions of~~ this chapter and who violates  
1179 this subsection commits a felony of the third degree, punishable  
1180 as provided in s. 775.082, s. 775.083, or s. 775.084, and is  
1181 subject to the imposition of fines and additional penalties as  
1182 follows:

1183 1. If the quantity of counterfeit cigarettes sold or  
1184 possessed with the intent to sell is less than 10 cartons or the  
1185 equivalent, the fine for a first violation shall not exceed  
1186 \$1,000 or five times the retail value of the counterfeit  
1187 cigarettes, whichever is greater. A subsequent violation may  
1188 result in the imposition of a fine not to exceed \$5,000 or five  
1189 times the retail value of the counterfeit cigarettes, whichever

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1190 is greater, and shall result in revocation of the permit by the  
1191 division.

1192 2. If the quantity of counterfeit cigarettes sold or  
1193 possessed with the intent to sell is 10 cartons or more or the  
1194 equivalent, the fine for a first violation shall not exceed  
1195 \$2,000 or five times the retail value of the counterfeit  
1196 cigarettes, whichever is greater. A subsequent violation may  
1197 result in the imposition of a fine not to exceed \$50,000 or five  
1198 times the retail value of the counterfeit cigarettes, whichever  
1199 is greater, and shall result in revocation of the permit by the  
1200 division.

1201  
1202 For purposes of this subsection, any counterfeit cigarettes  
1203 seized by the division shall be destroyed.

1204 (11) The division shall create a toll-free number for  
1205 reporting violations of this part. Upon a determination that a  
1206 violation has occurred, the informant who provided the  
1207 information that led to the determination shall be paid a reward  
1208 of up to 50 percent of the fine levied and paid under this  
1209 section. A notice must be conspicuously displayed in every  
1210 location where cigarettes are sold which contains the following  
1211 provision in conspicuous type: "NOTICE TO CUSTOMER: FLORIDA LAW  
1212 PROHIBITS THE POSSESSION OR SALE OF UNSTAMPED CIGARETTES. REPORT  
1213 VIOLATIONS TO (TOLL-FREE NUMBER). YOU MAY BE ELIGIBLE FOR A CASH  
1214 REWARD." This notice must be provided at the expense of the  
1215 retail dealer.

1216 Section 23. Subsections (2) and (3) of section 210.1801,  
1217 Florida Statutes, are amended to read:

1218 210.1801 Exempt cigarettes for members of recognized Indian

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1219 tribes.-

1220 (2) In order to ensure an adequate quantity of cigarettes  
1221 on Indian reservations which may be purchased by tribal members  
1222 who are exempt from the cigarette tax and surcharge, the program  
1223 ~~division~~ shall provide recognized Indian tribes within this  
1224 state with Indian-tax-and-surcharge-exemption coupons as set  
1225 forth in this section. A reservation cigarette seller shall  
1226 present such Indian-tax-and-surcharge-exemption coupons to a  
1227 wholesale dealer licensed in this state in order to purchase  
1228 stamped cigarettes that are exempt from the imposition of the  
1229 cigarette tax and surcharge. A tribal member may purchase  
1230 cigarettes that are exempt from the cigarette tax and surcharge  
1231 from a reservation cigarette seller even though such cigarettes  
1232 have an affixed cigarette tax-and-surcharge stamp.

1233 (3) Indian-tax-and-surcharge-exemption coupons shall be  
1234 provided to the recognized governing body of each Indian tribe  
1235 to ensure that each Indian tribe can obtain cigarettes that are  
1236 exempt from the tax and surcharge which are for the use of the  
1237 tribe or its members. The Indian-tax-and-surcharge-exemption  
1238 coupons shall be provided to the Indian tribes quarterly. It is  
1239 intended that each Indian tribe will distribute the Indian-tax-  
1240 and-surcharge-exemption coupons to reservation cigarette sellers  
1241 on such tribe's reservation. Only Indian tribes or reservation  
1242 cigarette sellers on their reservations may redeem such Indian-  
1243 tax-and-surcharge-exemption coupons pursuant to this section.

1244 (a) The number of Indian-tax-and-surcharge-exemption  
1245 coupons to be given to the recognized governing body of each  
1246 Indian tribe shall be based upon the probable demand of the  
1247 tribal members on the tribe's reservation plus the number needed

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1248 for official tribal use. The annual total number of Indian-tax-  
1249 and-surcharge-exemption coupons to be given to the recognized  
1250 governing body of each Indian tribe shall be calculated by  
1251 multiplying the number of members of the tribe times five packs  
1252 of cigarettes times 365.

1253 (b) Each wholesale dealer shall keep records of  
1254 transactions involving Indian-tax-and-surcharge-exemption  
1255 coupons and shall submit appropriate documentation to the  
1256 program division ~~division~~ when claiming a refund as set forth in this  
1257 section. Documentation must contain at least the following  
1258 information:

1259 1. The identity of the Indian tribe from which an Indian-  
1260 tax-and-surcharge-exemption coupon is received;

1261 2. The identity and the quantity of the product for which  
1262 an Indian-tax-and-surcharge-exemption coupon is provided;

1263 3. The date of issuance and the date of expiration of the  
1264 Indian-tax-and-surcharge-exemption coupon; and

1265 4. Any other information as the program division may deem  
1266 appropriate.

1267 Section 24. Subsections (2), (4), and (6) of section  
1268 210.185, Florida Statutes, are amended to read:

1269 210.185 Prohibition on sale or distribution of cigarettes;  
1270 criminal penalties; administrative sanctions; applicability.—

1271 (2) DOCUMENTATION.—On or before the 10th day of each month,  
1272 each person permitted to affix the tax stamp to cigarettes shall  
1273 file with the program division, ~~division~~, for all cigarettes imported into  
1274 the United States to which the person has affixed the tax stamp  
1275 in the preceding month, a copy of the permit issued under the  
1276 Internal Revenue Code, 26 U.S.C. s. 5713, to the person

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1277 importing the cigarettes into the United States which allows  
1278 that person to import those cigarettes; a copy of the customs  
1279 form containing, with respect to the cigarettes, the internal  
1280 revenue tax information required by the United States Bureau of  
1281 Alcohol, Tobacco and Firearms; and a statement, signed by an  
1282 officer of the manufacturer or importer under penalty of  
1283 perjury, certifying that the manufacturer or importer has  
1284 complied with the package health warning and ingredient  
1285 reporting requirements of the Federal Cigarette Labeling and  
1286 Advertising Act, 15 U.S.C. ss. 1333 and 1335a, with respect to  
1287 those cigarettes.

1288 (4) ADMINISTRATIVE SANCTIONS.—

1289 (a) The division may revoke or suspend the permit of any  
1290 distributing agent or wholesale dealer, or the retail tobacco  
1291 dealer permit of any retailer, and impose on the permittee a  
1292 civil penalty, in an amount not to exceed the greater of 500  
1293 percent of the retail value of the cigarettes involved or  
1294 \$5,000, upon finding a violation of this section or any  
1295 implementing rule adopted by the program or division.

1296 (b) Cigarettes that are acquired, held, owned, possessed,  
1297 transported in, imported into, or sold or distributed in this  
1298 state in violation of this section are considered contraband and  
1299 are subject to seizure and forfeiture under this part. Any  
1300 cigarettes so seized and forfeited shall be destroyed. The  
1301 cigarettes are considered contraband whether the violation of  
1302 this section is knowing or otherwise.

1303 (6) GENERAL PROVISIONS.—

1304 (a) The program and division shall enforce this section.  
1305 However, at the request of the program or the division, any law

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1306 enforcement agency shall enforce this section.

1307 (b) For the purpose of enforcing this act, the program or  
1308 the division and any agency to which the program or the division  
1309 has delegated enforcement responsibility may request information  
1310 from any state or local agency, and may share information with,  
1311 and request information from, any federal agency or any agency  
1312 of any other state or any local agency thereof.

1313 (c) In addition to any other remedy provided by law,  
1314 including enforcement as provided in paragraph (a), any person  
1315 may bring an action for appropriate injunctive or other  
1316 equitable relief for a violation of this section; for actual  
1317 damages, if any, sustained by reason of the violation; and, as  
1318 determined by the court, for interest on the damages from the  
1319 date of the complaint, taxable costs, and reasonable attorney's  
1320 fees. If the trier of fact finds that the violation is flagrant,  
1321 it may increase recovery to an amount not in excess of 3 times  
1322 the actual damages sustained by reason of the violation.

1323 Section 25. Section 210.19, Florida Statutes, is amended to  
1324 read:

1325 210.19 Records to be kept by the program; public records  
1326 ~~division~~.-

1327 (1) The program ~~division~~ shall keep records showing the  
1328 total amount of taxes collected, which records shall be open to  
1329 the public during the regular office hours of the program  
1330 ~~division~~. The program ~~division~~ shall maintain records that  
1331 identify which agent or wholesale dealer affixed the tax stamp  
1332 to each package of cigarettes. The identifying records must be  
1333 made available for public inspection and retained for at least 3  
1334 years.

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1335       (2) The records and files in the office of the program  
1336 appertaining to this part and part II shall be available in  
1337 Tallahassee to the public at any time during business hours. The  
1338 program shall prepare and make available a list of all  
1339 importers, manufacturers, and distributors licensed under this  
1340 chapter, monthly reports of cigarette and other tobacco product  
1341 sales to other states, and monthly wholesale reports.

1342       Section 26. Section 210.20, Florida Statutes, is amended to  
1343 read:

1344       210.20 Employees and assistants; distribution of funds.—

1345       (1) The program and division under the applicable rules of  
1346 the Department of Management Services have ~~shall have~~ the power  
1347 to employ such employees and assistants and incur such other  
1348 expenses as may be necessary for the administration of this  
1349 part, within the limits of an appropriation for the operation of  
1350 the Department of Revenue and the Department of Business and  
1351 Professional Regulation as may be authorized by the General  
1352 Appropriations Act.

1353       (2) As collections are received by the program ~~division~~  
1354 from such cigarette taxes, it shall pay the same into a trust  
1355 fund in the State Treasury designated "Cigarette Tax Collection  
1356 Trust Fund" which shall be paid and distributed as follows:

1357       (a) The program ~~division~~ shall from month to month certify  
1358 to the Chief Financial Officer the amount derived from the  
1359 cigarette tax imposed by s. 210.02, less the service charges  
1360 provided for in s. 215.20 and less 0.9 percent of the amount  
1361 derived from the cigarette tax imposed by s. 210.02, which shall  
1362 be deposited into the Alcoholic Beverage and Tobacco Trust Fund,  
1363 specifying the amounts to be transferred from the Cigarette Tax

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1364 Collection Trust Fund and credited on the basis of 2.9 percent  
1365 of the net collections to the Revenue Sharing Trust Fund for  
1366 Counties and 29.3 percent of the net collections for the funding  
1367 of indigent health care to the Public Medical Assistance Trust  
1368 Fund.

1369 (b)1. Beginning January 1, 1999, and continuing for 10  
1370 years thereafter, the program ~~division~~ shall from month to month  
1371 certify to the Chief Financial Officer the amount derived from  
1372 the cigarette tax imposed by s. 210.02, less the service charges  
1373 provided for in s. 215.20 and less 0.9 percent of the amount  
1374 derived from the cigarette tax imposed by s. 210.02, which shall  
1375 be deposited into the Alcoholic Beverage and Tobacco Trust Fund,  
1376 specifying an amount equal to 2.59 percent of the net  
1377 collections, and that amount shall be paid to the Board of  
1378 Directors of the H. Lee Moffitt Cancer Center and Research  
1379 Institute, established under s. 1004.43, by warrant drawn by the  
1380 Chief Financial Officer upon the State Treasury. These funds are  
1381 hereby appropriated monthly out of the Cigarette Tax Collection  
1382 Trust Fund, to be used for the purpose of constructing,  
1383 furnishing, and equipping a cancer research facility at the  
1384 University of South Florida adjacent to the H. Lee Moffitt  
1385 Cancer Center and Research Institute. In fiscal years 1999-2000  
1386 and thereafter with the exception of fiscal year 2008-2009, the  
1387 appropriation to the H. Lee Moffitt Cancer Center and Research  
1388 Institute authorized by this subparagraph shall not be less than  
1389 the amount that would have been paid to the H. Lee Moffitt  
1390 Cancer Center and Research Institute for fiscal year 1998-1999  
1391 had payments been made for the entire fiscal year rather than  
1392 for a 6-month period thereof.



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1393           2. Beginning July 1, 2002, and continuing through June 30,  
1394 2004, the program ~~division~~ shall, in addition to the  
1395 distribution authorized in subparagraph 1., from month to month  
1396 certify to the Chief Financial Officer the amount derived from  
1397 the cigarette tax imposed by s. 210.02, less the service charges  
1398 provided for in s. 215.20 and less 0.9 percent of the amount  
1399 derived from the cigarette tax imposed by s. 210.02, which shall  
1400 be deposited into the Alcoholic Beverage and Tobacco Trust Fund,  
1401 specifying an amount equal to 0.2632 percent of the net  
1402 collections, and that amount shall be paid to the Board of  
1403 Directors of the H. Lee Moffitt Cancer Center and Research  
1404 Institute, established under s. 1004.43, by warrant drawn by the  
1405 Chief Financial Officer. Beginning July 1, 2004, and continuing  
1406 through June 30, 2020, the program ~~division~~ shall, in addition  
1407 to the distribution authorized in subparagraph 1., from month to  
1408 month certify to the Chief Financial Officer the amount derived  
1409 from the cigarette tax imposed by s. 210.02, less the service  
1410 charges provided for in s. 215.20, and less 0.9 percent of the  
1411 amount derived from the cigarette tax imposed by s. 210.02,  
1412 which shall be deposited into the Alcoholic Beverage and Tobacco  
1413 Trust Fund, specifying an amount equal to 1.47 percent of the  
1414 net collections, and that amount shall be paid to the Board of  
1415 Directors of the H. Lee Moffitt Cancer Center and Research  
1416 Institute, established under s. 1004.43, by warrant drawn by the  
1417 Chief Financial Officer. These funds are appropriated monthly  
1418 out of the Cigarette Tax Collection Trust Fund, to be used for  
1419 the purpose of constructing, furnishing, and equipping a cancer  
1420 research facility at the University of South Florida adjacent to  
1421 the H. Lee Moffitt Cancer Center and Research Institute. In

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1422 fiscal years 2004-2005 and thereafter, the appropriation to the  
1423 H. Lee Moffitt Cancer Center and Research Institute authorized  
1424 by this subparagraph shall not be less than the amount that  
1425 would have been paid to the H. Lee Moffitt Cancer Center and  
1426 Research Institute in fiscal year 2001-2002, had this  
1427 subparagraph been in effect.

1428 (3) After all distributions hereinabove provided for have  
1429 been made, the balance of the revenue produced from the tax  
1430 imposed by this part shall be deposited in the General Revenue  
1431 Fund.

1432 Section 27. Subsections (4) and (13) of section 210.25,  
1433 Florida Statutes, are amended, and subsection (14) is added to  
1434 that section, to read:

1435 210.25 Definitions.—As used in this part:

1436 (4) "Distributor" means:

1437 (a) Any person engaged in the business of selling tobacco  
1438 products in this state who ships or transports tobacco products  
1439 to retailers in this state to be sold by those retailers ~~brings,~~  
1440 ~~or causes to be brought, into this state from outside the state~~  
1441 ~~any tobacco products for sale; or~~

1442 ~~(b) Any person who makes, manufactures, or fabricates~~  
1443 ~~tobacco products in this state for sale in this state; or~~

1444 (b) ~~(e)~~ Any person engaged in the business of selling  
1445 tobacco outside this state who ships or transports tobacco  
1446 products to retailers in this state to be sold by those  
1447 retailers.

1448 (13) "Wholesale sales price" means the established price  
1449 for which the distributor who sells a tobacco product to the  
1450 retailer paid for that tobacco product ~~a manufacturer sells a~~

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1451 ~~tobacco product to a distributor, exclusive of any diminution by~~  
1452 ~~volume or other discounts.~~

1453 (14) "Program" means the General Tax Administration Program  
1454 Office of the Department of Revenue.

1455 Section 28. Section 210.31, Florida Statutes, is amended to  
1456 read:

1457 210.31 Payment of taxes by Electronic filing and payment of  
1458 taxes funds transfer.—A dealer who had paid taxes imposed under  
1459 s. 210.30 in the previous state fiscal year in the amount of  
1460 \$20,000 or more must remit payments by electronic funds transfer  
1461 and make a return in a manner that is initiated through an  
1462 electronic data interchange. The provisions of this section are  
1463 in addition to the requirements of s. 213.755 to electronically  
1464 file tax returns and remit payments required under this chapter.  
1465 ~~The Secretary of Business and Professional Regulation may~~  
1466 ~~require a distributor who sells tobacco products within the~~  
1467 ~~state to remit by electronic funds transfer any tax imposed~~  
1468 ~~under s. 210.30 if the taxpayer is subject to the tax and if the~~  
1469 ~~total of such taxes the distributor paid in the prior year~~  
1470 ~~amounted to \$50,000 or more.~~

1471 Section 29. Section 210.35, Florida Statutes, is amended to  
1472 read:

1473 210.35 Distributor's license required; application; out-of-  
1474 state applicant.—

1475 (1) A ~~Ne~~ person may not ~~shall~~ engage in the business of  
1476 selling or dealing in tobacco products as a distributor in any  
1477 place of business in this state without first having received a  
1478 license from the division to engage in such business at the  
1479 place of business. Every application for such license must ~~shall~~

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1480 be made on a form prescribed by the division and must ~~shall~~  
1481 state the name and address of the applicant; if the applicant is  
1482 a firm, partnership, or association, the name and address of  
1483 each of its members; if the applicant is a corporation, the name  
1484 and address of each of its officers; the address of its  
1485 principal place of business; the place where the business to be  
1486 licensed is to be conducted; and such other information as the  
1487 division may require for the purpose of the administration of  
1488 this part.

1489 (2) A person outside this state who ships or transports  
1490 tobacco products to retailers in this state, to be sold by those  
1491 retailers, may make application for license as a distributor, be  
1492 granted such a license by the division, and thereafter be  
1493 subject to ~~all the provisions of~~ this part and entitled to act  
1494 as a licensed distributor.

1495 (3) A permit or license may not be issued by the division  
1496 to an applicant who is not a registered dealer with the program  
1497 or to an applicant who has an outstanding tax warrant for more  
1498 than 3 months from the program.

1499 Section 30. Section 210.40, Florida Statutes, is amended to  
1500 read:

1501 210.40 License fees; surety bond; application for each  
1502 place of business.—Each application for a distributor's license  
1503 shall be accompanied by a fee of \$25. The application shall also  
1504 be accompanied by a corporate surety bond issued by a surety  
1505 company authorized to do business in this state, conditioned for  
1506 the payment when due of all taxes, penalties, and accrued  
1507 interest which may be due the state. The bond shall be in the  
1508 sum of \$1,000 and in a form prescribed by the division. Whenever

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1509 it is the opinion of the program ~~division~~ that the bond given by  
1510 a licensee is inadequate in amount to fully protect the state,  
1511 the division shall require an additional bond in such amount as  
1512 is deemed sufficient. A separate application for a license shall  
1513 be made for each place of business at which a distributor  
1514 proposes to engage in business as a distributor under this part,  
1515 but an applicant may provide one bond in an amount determined by  
1516 the division for all applications made by the distributor.

1517 Section 31. Section 210.45, Florida Statutes, is amended to  
1518 read:

1519 210.45 Issuance, expiration, and display of licenses;  
1520 license not transferable.—Upon receipt of an application in  
1521 proper form and payment of the required license fee, the  
1522 division shall, unless otherwise provided by this part, issue to  
1523 the applicant a license which shall permit the applicant to  
1524 engage in business as a manufacturer, importer, or distributor  
1525 at the place of business shown on the license. Each license  
1526 shall expire on June 30 following its date of issue unless  
1527 sooner revoked by the division or unless the business for which  
1528 the license was issued is transferred. In either case, the  
1529 holder of the license shall immediately surrender it to the  
1530 division. Each license shall be prominently displayed on the  
1531 premises covered by the license. A ~~No~~ license is not ~~shall be~~  
1532 transferable to any other person.

1533 Section 32. Section 210.50, Florida Statutes, is amended to  
1534 read:

1535 210.50 Revocation or suspension of license.—

1536 (1) The division may, ~~is authorized~~ upon sufficient cause  
1537 appearing of a ~~the~~ violation of ~~any of the provisions of this~~

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1538 part by any manufacturer, importer, or distributor licensed  
1539 under this part, ~~to~~ revoke the license of the manufacturer,  
1540 importer, or distributor.

1541 (2) The division may suspend for a reasonable period of  
1542 time, in its discretion, the license of any manufacturer,  
1543 importer, or distributor issued under ~~the provisions of this~~  
1544 part for the same causes and under the same limitations as are  
1545 authorized for license revocation.

1546 (3) A manufacturer, importer, or ~~No~~ distributor whose  
1547 license for any place of business has been revoked may not shall  
1548 engage in business under this part at such place of business,  
1549 after the revocation, until a new license is issued. A  
1550 manufacturer, importer, or ~~No~~ distributor whose license for any  
1551 place of business has been revoked is not shall be permitted to  
1552 have the license renewed or to obtain an additional license for  
1553 any other place of business for a period of 6 months after the  
1554 date such revocation becomes final.

1555 (4) In lieu of the suspension or revocation of licenses,  
1556 the division may impose civil penalties against holders of  
1557 licenses for violations of this part or rules relating thereto.  
1558 A ~~No~~ civil penalty so imposed may not shall exceed \$1,000 for  
1559 each offense, and all amounts collected shall be deposited with  
1560 the Chief Financial Officer to the credit of the General Revenue  
1561 Fund. If the holder of the license fails to pay the civil  
1562 penalty, his or her license shall be suspended for such period  
1563 of time as the division may specify.

1564 (5) The division may suspend or revoke a permit or license  
1565 if a Department of Revenue tax warrant has been outstanding  
1566 against the license or permitholder for more than 3 months.

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1567 Section 33. Subsection (3) is added to section 210.51,  
1568 Florida Statutes, to read:

1569 210.51 Renewal of permit.—

1570 (3) The division may deny an application to renew a permit  
1571 or license if a tax warrant from the program has been  
1572 outstanding against the applicant for more than 3 months.

1573 Section 34. Section 210.55, Florida Statutes, is amended to  
1574 read:

1575 210.55 Manufacturers, importers, and distributors; monthly  
1576 returns.—

1577 (1) On or before the 10th of each month, every  
1578 manufacturer, importer, and distributor having taxpayer with a  
1579 place of business in this state shall file a return with the  
1580 program division showing the taxable price of each tobacco  
1581 product brought or caused to be brought into this state for  
1582 sale, or made, manufactured, or fabricated in this state for  
1583 sale in this state, during the preceding month. Every  
1584 manufacturer, importer, and distributor taxpayer outside this  
1585 state shall file a return showing the quantity and taxable price  
1586 of each tobacco product shipped or transported to retailers in  
1587 this state, to be sold by those retailers, during the preceding  
1588 month. Returns shall be made upon forms furnished and prescribed  
1589 by the program division and shall contain any other information  
1590 that the program division requires. Each return shall be  
1591 accompanied by a remittance for the full tax liability shown.

1592 (2) As soon as practicable after any return is filed, the  
1593 program division shall examine each return and correct it, if  
1594 necessary, according to its best judgment and information. If  
1595 the program division finds that any amount of tax is due from

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1596 the taxpayer and unpaid, it shall notify the taxpayer of the  
1597 deficiency, stating that it proposes to assess the amount due  
1598 together with interest and penalties. If a deficiency disclosed  
1599 by the program's ~~division's~~ examination cannot be allocated to  
1600 one or more particular months, the program ~~division~~ shall notify  
1601 the taxpayer of the deficiency, stating its intention to assess  
1602 the amount due for a given period without allocating it to any  
1603 particular months.

1604 (3) If, within 60 days after the mailing of notice of the  
1605 proposed assessment, the taxpayer files a protest to the  
1606 proposed assessment and requests a hearing on it, the program  
1607 ~~division~~ shall give notice to the taxpayer of the time and place  
1608 fixed for the hearing, shall hold a hearing on the protest, and  
1609 shall issue a final assessment to the taxpayer for the amount  
1610 found to be due as a result of the hearing. If a protest is not  
1611 filed within 60 days, the program ~~division~~ shall issue a final  
1612 assessment to the taxpayer. In any action or proceeding in  
1613 respect to the proposed assessment, the taxpayer shall have the  
1614 burden of establishing the incorrectness or invalidity of any  
1615 final assessment made by the program ~~division~~.

1616 (4) If any taxpayer required to file any return fails to do  
1617 so within the time prescribed, the taxpayer shall, on the  
1618 written demand of the program ~~division~~, file the return within  
1619 20 days after mailing of the demand and at the same time pay the  
1620 tax due on its basis. If the taxpayer fails within that time to  
1621 file the return, the program ~~division~~ shall prepare the return  
1622 from its own knowledge and from the information that it obtains  
1623 and on that basis shall assess a tax, which shall be paid within  
1624 10 days after the program ~~division~~ has mailed to the taxpayer a



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1625 written notice of the amount and a demand for its payment. In  
1626 any action or proceeding in respect to the assessment, the  
1627 taxpayer shall have the burden of establishing the incorrectness  
1628 or invalidity of any return or assessment made by the program  
1629 ~~division~~ because of the failure of the taxpayer to make a  
1630 return.

1631 (5) All taxes are due not later than the 10th day of the  
1632 month following the calendar month in which they were incurred,  
1633 and thereafter shall bear interest at the annual rate of 12  
1634 percent. If the amount of tax due for a given period is assessed  
1635 without allocating it to any particular month, the interest  
1636 shall begin with the date of the assessment.

1637 (6) In issuing its final assessment, the program ~~division~~  
1638 shall add to the amount of tax found due and unpaid a penalty of  
1639 10 percent, but if it finds that the taxpayer has made a false  
1640 return with intent to evade the tax, the penalty shall be 50  
1641 percent of the entire tax as shown by the corrected return. In  
1642 assessing a tax on the basis of a return made under subsection  
1643 (4), the program ~~division~~ shall add to the amount of tax found  
1644 due and unpaid a penalty of 25 percent.

1645 (7) For the purpose of compensating the distributor for the  
1646 keeping of prescribed records and the proper accounting and  
1647 remitting of taxes imposed under this part, the distributor  
1648 shall be allowed 1 percent of the amount of the tax due and  
1649 accounted for and remitted to the program ~~division~~ in the form  
1650 of a deduction in submitting his or her report and paying the  
1651 amount due; and the program ~~division~~ shall allow such deduction  
1652 of 1 percent of the amount of the tax to the person paying the  
1653 same for remitting the tax in the manner herein provided, for

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1654 paying the amount due to be paid by him or her, and as further  
1655 compensation to the distributor for the keeping of prescribed  
1656 records and for collection of taxes and remitting the same.

1657 (a) The collection allowance may not be granted, nor may  
1658 any deduction be permitted, if the tax is delinquent at the time  
1659 of payment.

1660 (b) The program ~~division~~ may reduce the collection  
1661 allowance by 10 percent or \$50, whichever is less, if a taxpayer  
1662 files an incomplete return.

1663 1. An "incomplete return" is, for purposes of this part, a  
1664 return which is lacking such uniformity, completeness, and  
1665 arrangement that the physical handling, verification, or review  
1666 of the return may not be readily accomplished.

1667 2. The program ~~may division shall~~ adopt rules requiring  
1668 such information as it may deem necessary to ensure that the tax  
1669 levied hereunder is properly collected, reviewed, compiled, and  
1670 enforced, including, but not limited to: the amount of taxable  
1671 sales; the amount of tax collected or due; the amount claimed as  
1672 the collection allowance; the amount of penalty and interest;  
1673 the amount due with the return; and such other information as  
1674 the program ~~division~~ may specify.

1675 (8) In addition to the reporting requirements in this  
1676 chapter, wholesale dealers and distributing agents must also  
1677 provide the program with information regarding sales to the  
1678 retail dealers: the names, addresses, retail tobacco products  
1679 dealer permit numbers, and resale certificate numbers; invoice  
1680 numbers; the dates the products were sold; the quantity of each  
1681 type of product sold; and the sales price of each type of  
1682 product sold on its monthly returns.

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1683 Section 35. Section 210.60, Florida Statutes, is amended to  
1684 read:

1685 210.60 Books, records, and invoices to be kept and  
1686 preserved; inspection by agents of division.—Every manufacturer,  
1687 importer, and distributor shall keep in each licensed place of  
1688 business complete and accurate records for that place of  
1689 business, including itemized invoices of tobacco products held,  
1690 purchased, manufactured, brought in or caused to be brought in  
1691 from without the state, or shipped or transported to retailers  
1692 in this state, and of all sales of tobacco products made, except  
1693 sales to an ultimate consumer. Such records shall show the names  
1694 and addresses of purchasers and other pertinent papers and  
1695 documents relating to the purchase, sale, or disposition of  
1696 tobacco products. When a licensed distributor sells tobacco  
1697 products exclusively to ultimate consumers at the addresses  
1698 given in the license, no invoice of those sales shall be  
1699 required, but itemized invoices shall be made of all tobacco  
1700 products transferred to other retail outlets owned or controlled  
1701 by that licensed distributor. All books, records and other  
1702 papers, and other documents required by this section to be kept  
1703 shall be preserved for a period of at least 3 years after the  
1704 date of the documents, as aforesaid, or the date of the entries  
1705 thereof appearing in the records, unless the program division,  
1706 in writing, authorizes their destruction or disposal at an  
1707 earlier date. At any time during usual business hours, duly  
1708 authorized agents or employees of the program division may enter  
1709 any place of business of a manufacturer, importer, or  
1710 distributor and inspect the premises, the records required to be  
1711 kept under this part, and the tobacco products contained therein

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1712 to determine whether all the provisions of this part are being  
1713 fully complied with. Refusal to permit such inspection by a duly  
1714 authorized agent or employee of the program ~~division~~ shall be  
1715 grounds for revocation of the license. Every person who sells  
1716 tobacco products to persons other than an ultimate consumer  
1717 shall render with each sale an itemized invoice showing the  
1718 seller's name and address, the purchaser's name and address, the  
1719 date of sale, and all prices and discounts. The seller shall  
1720 preserve legible copies of all such invoices for 3 years from  
1721 the date of sale. Every retailer shall produce itemized invoices  
1722 of all tobacco products purchased. The invoices shall show the  
1723 name and address of the seller and the date of purchase. The  
1724 retailer shall preserve a legible copy of each such invoice for  
1725 3 years from the date of purchase. Invoices shall be available  
1726 for inspection by authorized agents or employees of the division  
1727 at the retailer's place of business.

1728 Section 36. Section 210.65, Florida Statutes, is amended to  
1729 read:

1730 210.65 Penalties for tax evasion.—

1731 (1) Any distributor or any other person who fails,  
1732 neglects, or refuses to comply with, or violates ~~the provisions~~  
1733 ~~of,~~ this part or the rules adopted ~~promulgated~~ by the program or  
1734 division under this part, commits ~~is guilty of~~ a misdemeanor of  
1735 the first degree, punishable as provided in s. 775.082 or s.  
1736 775.083.

1737 (2) Any retailer who purchases tobacco products from a  
1738 distributor not licensed under ~~the provisions of~~ this part  
1739 commits ~~is guilty of~~ a misdemeanor of the first degree,  
1740 punishable as provided in s. 775.082 or s. 775.083.

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1741 (3) Any distributor or any other person who has been  
1742 convicted of a violation of this part and is thereafter  
1743 convicted of a further violation of this part shall, upon  
1744 conviction of the subsequent ~~said further~~ offense, be guilty of  
1745 a felony of the third degree, punishable as provided in s.  
1746 775.082, s. 775.083, or s. 775.084.

1747 Section 37. Section 210.70, Florida Statutes, is amended to  
1748 read:

1749 210.70 Disposition of funds.—As collections from the taxes  
1750 imposed under this part are received by the program ~~division~~, it  
1751 shall pay the same into the General Revenue Fund.

1752 Section 38. Subsection (4) is added to section 559.79,  
1753 Florida Statutes, to read:

1754 559.79 Applications for license or renewal.—

1755 (4) The Department of Business and Professional Regulation  
1756 and the Department of Revenue shall work cooperatively to  
1757 establish an automated method for periodically disclosing  
1758 information relating to licensees.

1759 Section 39. Subsection (22) is added to section 561.01,  
1760 Florida Statutes, to read:

1761 561.01 Definitions.—As used in the Beverage Law:

1762 (22) "Program" means the General Tax Administration Program  
1763 Office within the Department of Revenue.

1764 Section 40. Section 561.024, Florida Statutes, is created  
1765 to read:

1766 561.024 Tax collection responsibilities with the Department  
1767 of Revenue.—In order to ensure the most effective and efficient  
1768 collection of taxes and notwithstanding other laws to the  
1769 contrary, the authority to collect taxes on alcoholic beverages

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1770 and to distribute the funds collected, as provided in chapters  
1771 561, 562, 563, 564, and 565, is the responsibility of the  
1772 General Tax Administration Program Office of the Department of  
1773 Revenue.

1774 Section 41. (1) All of the statutory powers, duties, and  
1775 functions, and all of the records, personnel, property, and  
1776 unexpended balances of appropriations, allocations, or other  
1777 funds for the administration of collecting taxes on alcoholic  
1778 beverages shall be transferred by a type two transfer, as  
1779 defined in s. 20.06(2), Florida Statutes, from the Department of  
1780 Business and Professional Regulation to the Department of  
1781 Revenue effective July 1, 2011.

1782 (2) Notwithstanding ss. 216.292 and 216.351, Florida  
1783 Statutes, upon approval by the Legislative Budget Committee, the  
1784 Executive Office of the Governor may transfer funds and  
1785 positions between agencies to implement this act.

1786 (3) The executive director of the Department of Revenue may  
1787 establish, abolish, or consolidate bureaus, sections, or  
1788 subsections within the General Tax Administration Program  
1789 Office, and may reallocate duties and functions within the  
1790 program to promote effective and efficient operation of the  
1791 program. This subsection is subject to the requirements of s.  
1792 216.181, Florida Statutes. The executive director may not  
1793 establish, abolish, or consolidate bureaus, sections, or  
1794 subsections after July 1, 2012, unless such action is approved  
1795 by the Legislature or by law.

1796 (4) The rules relating to the collection and audit of taxes  
1797 on alcoholic beverages are transferred from the Department of  
1798 Business and Professional Regulation to the Department of

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1799 Revenue, which rules in effect at 11:59 p.m. on June 30, 2011,  
1800 shall become the rules of the Department of Revenue and shall  
1801 remain in effect until amended or repealed in the manner  
1802 provided by law. The Department of Revenue may adopt rules and  
1803 forms pursuant to ss. 120.536(1) and 120.54, Florida Statutes,  
1804 to administer the collection and audit of taxes relating to  
1805 alcoholic beverages under chapters 561, 562, 563, 564, and 565,  
1806 Florida Statutes.

1807 (5) The Department of Revenue may enforce any rule adopted  
1808 by the Division of Alcoholic Beverages and Tobacco of the  
1809 Department of Business and Professional Regulation for the  
1810 collection and auditing of taxes relating to alcoholic  
1811 beverages.

1812 (6) The Department of Revenue is considered to be  
1813 administering a revenue law of this state when the department  
1814 implements this chapter. Sections 213.015(1)-(3), (5)-(7), (9)-  
1815 (19), and (21); 213.018; 213.025; 213.051; 213.053; 213.0532;  
1816 213.0535; 213.055; 213.071; 213.10; 213.21(4); 213.2201; 213.23;  
1817 213.24; 213.25; 213.27; 213.28; 213.285; 213.34(1), (3), and  
1818 (4); 213.37; 213.50; 213.67; 213.69; 213.73; 213.733; 213.74;  
1819 213.75; 213.756; and 213.75, Florida Statutes, apply to the  
1820 collection of taxes on alcoholic beverages under chapters 561-  
1821 565 by the Department of Revenue.

1822 Section 42. Section 561.051, Florida Statutes, is amended  
1823 to read:

1824 561.051 Reporting requirements of director.—The director of  
1825 the division shall promptly report and remit to the Chief  
1826 Financial Officer all ~~taxes and~~ fees collected by him or her  
1827 hereunder. The director of the program shall promptly report and

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1828 remit to the Chief Financial Officer all taxes collected by him  
1829 or her hereunder.

1830 Section 43. Section 561.08, Florida Statutes, is amended to  
1831 read:

1832 561.08 Enforcement of Beverage Law; division to prescribe  
1833 forms.—The program and division shall enforce the provisions of  
1834 the Beverage Law and cigarette tax law and perform such other  
1835 acts as may be necessary to carry out the provisions thereof.  
1836 and The division may shall prescribe forms of bonds, reports,  
1837 and other papers, to be used under and in the execution and  
1838 enforcement of the provisions of the Beverage Law and the  
1839 cigarette tax law. The program may prescribe forms, reports, and  
1840 records to be kept for the collection and audit of the Beverage  
1841 Law and the cigarette tax law.

1842 Section 44. Section 561.11, Florida Statutes, is amended to  
1843 read:

1844 561.11 Power and authority of division.—

1845 (1) The division may ~~has authority to~~ adopt rules pursuant  
1846 to ss. 120.536(1) and 120.54 to implement the ~~provisions of the~~  
1847 Beverage Law.

1848 (2) The division may ~~shall have full power and authority to~~  
1849 provide for the continuous training and upgrading of all  
1850 division personnel in their respective positions with the  
1851 division. This training shall include the attendance of division  
1852 personnel at workshops, seminars, or special schools established  
1853 by the division or other organizations when attendance at such  
1854 educational programs shall in the opinion of the division be  
1855 deemed appropriate to the particular position which the employee  
1856 holds.



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1857 Section 45. Section 561.111, Florida Statutes, is amended  
1858 to read:

1859 561.111 Payment of taxes by Electronic filing and payment  
1860 of taxes funds transfer.—A dealer who paid taxes imposed under  
1861 chapter 563, chapter 564, or chapter 565 in the previous state  
1862 fiscal year in an amount of \$20,000 or more, must remit payments  
1863 by electronic funds transfer and make a return in a manner that  
1864 is initiated through an electronic data interchange. The  
1865 provisions of this section are in addition to the requirements  
1866 of s. 213.755 to electronically file returns and remit payments  
1867 required under this chapter. The Secretary of Business and  
1868 Professional Regulation may require a person who manufactures or  
1869 distributes alcoholic beverages within the state to remit by  
1870 electronic funds transfer any tax imposed under chapter 563,  
1871 chapter 564, or chapter 565 if the taxpayer is subject to tax  
1872 and if the total of such taxes he or she paid in the prior year  
1873 amounted to \$50,000 or more.

1874 Section 46. Subsection (5) is added to section 561.15,  
1875 Florida Statutes, to read:

1876 561.15 Licenses; qualifications required.—

1877 (5) A permit or license may not be issued by the division  
1878 to an applicant who is not a registered dealer with the program  
1879 or to an applicant who has an outstanding tax warrant for more  
1880 than 3 months from the program.

1881 Section 47. Subsection (3) of section 561.221, Florida  
1882 Statutes, is amended to read:

1883 561.221 Licensing of manufacturers and distributors as  
1884 vendors and of vendors as manufacturers; conditions and  
1885 limitations.—

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1886 (3) (a) Notwithstanding other provisions of the Beverage  
1887 Law, any vendor licensed in this state may be licensed as a  
1888 manufacturer of malt beverages upon a finding by the division  
1889 that:

1890 1. The vendor will be engaged in brewing malt beverages at  
1891 a single location and in an amount which will not exceed 10,000  
1892 kegs per year. For purposes of this subsection, the term "keg"  
1893 means 15.5 gallons.

1894 2. The malt beverages so brewed will be sold to consumers  
1895 for consumption on the vendor's licensed premises or on  
1896 contiguous licensed premises owned by the vendor.

1897 (b) Any vendor which is also licensed as a manufacturer of  
1898 malt beverages pursuant to this subsection is ~~shall be~~  
1899 responsible for applicable reports pursuant to ss. 561.50 and  
1900 561.55 with respect to the amount of beverage manufactured each  
1901 month and shall pay applicable excise taxes thereon to the  
1902 program ~~division~~ by the 10th day of each month for the previous  
1903 month.

1904 (c) It is ~~shall be~~ unlawful for any licensed distributor of  
1905 malt beverages or any officer, agent, or other representative  
1906 thereof to discourage or prohibit any vendor licensed as a  
1907 manufacturer under this subsection from offering malt beverages  
1908 brewed for consumption on the licensed premises of the vendor.

1909 (d) It is ~~shall be~~ unlawful for any manufacturer of malt  
1910 beverages or any officer, agent, or other representative thereof  
1911 to take any action to discourage or prohibit any distributor of  
1912 the manufacturer's product from distributing such product to a  
1913 licensed vendor which is also licensed as a manufacturer of malt  
1914 beverages pursuant to this subsection.

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1915 Section 48. Section 561.25, Florida Statutes, is amended to  
1916 read:

1917 561.25 Officers and employees prohibited from being  
1918 employed by or engaging in beverage business; penalties;  
1919 exceptions.—

1920 (1) No officer or employee of the division, no officer or  
1921 employee of the program, and no sheriff or other state, county,  
1922 or municipal officer with state police power granted by the  
1923 Legislature, is ~~shall be~~ permitted to engage in the sale of  
1924 alcoholic beverages under the Beverage Law; or shall be  
1925 employed, directly or indirectly, in connection with the  
1926 operation of any business licensed under the Beverage Law; or  
1927 shall be permitted to own any stock or interest in any firm,  
1928 partnership, or corporation dealing wholly or partly in the sale  
1929 or distribution of alcoholic beverages, except as provided in  
1930 this section. ~~The provisions of~~ This subsection does ~~shall~~ not  
1931 ~~be construed to~~ prevent any certified law enforcement officer,  
1932 except members of the Florida Highway Patrol or its auxiliary,  
1933 or employees of the division, from being employed in businesses  
1934 which have obtained licenses only to sell beer or beer and wine  
1935 for consumption off the premises. However, the written approval  
1936 of the chief of police, sheriff, or other appropriate department  
1937 head must be obtained for any such employment.

1938 (2) Any person violating this section commits ~~shall be~~  
1939 ~~guilty of~~ a misdemeanor of the second degree, punishable as  
1940 provided in s. 775.082 or s. 775.083, and shall be automatically  
1941 removed or suspended from office.

1942 (3) This section does not ~~Nothing herein may be construed~~  
1943 ~~to~~ prohibit any sheriff or other state, county, or municipal

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1944 officer with state police power granted by the Legislature from  
1945 owning, negotiating, or trading any shares of stock, bonds, or  
1946 other securities which are regulated by and registered with the  
1947 Securities and Exchange Commission, and which are customarily  
1948 traded on the major stock exchanges of the United States, or  
1949 from being employed as an entertainer or from rendering security  
1950 services when off duty in any business establishment licensed  
1951 under the beverage laws to sell beverages, provided the written  
1952 approval of the chief of police, sheriff, or other appropriate  
1953 department head is obtained for the place and hours of such  
1954 employment or service. Any officer employed for the purposes of  
1955 rendering private security services as permitted under this  
1956 section shall not be paid less than the established prevailing  
1957 wage.

1958 Section 49. Subsection (3) is added to section 561.27,  
1959 Florida Statutes, to read:

1960 561.27 Renewal of license.—

1961 (3) The division may deny an application to renew a permit  
1962 or license if a tax warrant from the program has been  
1963 outstanding against the applicant for more than 3 months.

1964 Section 50. Subsection (2) of section 561.29, Florida  
1965 Statutes, is amended to read:

1966 561.29 Revocation and suspension of license; power to  
1967 subpoena.—

1968 (2) The division and program, or any employee designated by  
1969 them ~~it~~, shall have the power and authority to examine into the  
1970 business, books, records, and accounts of any licensee, to issue  
1971 subpoenas to said licensee or any other person from whom  
1972 information is desired, and to take depositions of witnesses

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1973 within or without of the state. The division and program, or any  
1974 employee designated by them ~~it~~, may administer oaths and issue  
1975 subpoenas. The provisions of the civil law of the state in  
1976 relation to enforcing obedience to a subpoena lawfully issued by  
1977 a judge or other person duly authorized to issue subpoenas under  
1978 the laws of the state, to issue subpoenas in civil cases, shall  
1979 apply to a subpoena issued by the division or program, or any  
1980 employee designated by them ~~it~~, as authorized in this section,  
1981 and may be enforced by writ of attachment to be issued by the  
1982 division or program, or any employee designated by them ~~it~~, for  
1983 such witness to compel him or her to attend before the division,  
1984 or any employee designated by them ~~it~~, and give his or her  
1985 testimony and to bring and produce such books, papers, and  
1986 documents as may be required for examination; and the division  
1987 or program, or any employee designated by them ~~it~~, may punish  
1988 any willful refusal to so appear or give testimony by citation  
1989 of any witness before the circuit court who shall punish such  
1990 witness for contempt as in cases of refusal to obey the orders  
1991 and process of the circuit court. The division or program may in  
1992 such cases pay such attendance and mileage fees as are permitted  
1993 to be paid to witnesses in civil cases appearing before the  
1994 circuit court.

1995 Section 51. Section 561.37, Florida Statutes, is amended to  
1996 read:

1997 561.37 Bond for payment of taxes.—Each manufacturer and  
1998 each distributor shall file with the division a surety bond  
1999 acceptable to the division in the sum of \$25,000 as surety for  
2000 the payment of all taxes, provided, however, that when in the  
2001 discretion of the division the amount of business done by the

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2002 manufacturer or distributor is of such volume that a bond of  
2003 less than \$25,000 will be adequate to secure the payment of all  
2004 taxes assessed or authorized by the Beverage Law, the division  
2005 may accept a bond in a lesser sum than \$25,000, but in no event  
2006 shall it accept a bond of less than \$10,000, and it may at any  
2007 time in its discretion require any bond in an amount less than  
2008 \$25,000 to be increased so as not to exceed \$25,000; provided,  
2009 however, that the amount of bond required for a brewer shall be  
2010 \$20,000, except that where, in the discretion of the division,  
2011 the amount of business done by the brewer is of such volume that  
2012 a bond of less than \$20,000 will be adequate to secure the  
2013 payment of all taxes assessed or authorized by the Beverage Law,  
2014 the program ~~division~~ may accept a bond in a lesser sum than  
2015 \$20,000, but in no event shall it accept a bond of less than  
2016 \$10,000, and it may at any time in its discretion require any  
2017 bond in an amount less than \$20,000 to be increased so as not to  
2018 exceed \$20,000; provided further that the amount of the bond  
2019 required for a wine or wine and cordial manufacturer shall be  
2020 \$5,000, except that, in the case of a manufacturer engaged  
2021 solely in the experimental manufacture of wines and cordials  
2022 from Florida products, where in the discretion of the division  
2023 the amount of business done by such manufacturer is of such  
2024 volume that a bond of less than \$5,000 will be adequate to  
2025 secure the payment of all taxes assessed or authorized by the  
2026 Beverage Law, the division may accept a bond in a lesser sum  
2027 than \$5,000, but in no event shall it accept a bond of less than  
2028 \$1,000 and it may at any time in its discretion require a bond  
2029 in an amount less than \$5,000 to be increased so as not to  
2030 exceed \$5,000; provided, further, that the amount of bond

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2031 required for a distributor who sells only beverages containing  
2032 not more than 4.007 percent of alcohol by volume, in counties  
2033 where the sale of intoxicating liquors, wines, and beers is  
2034 prohibited, and to distributors who sell only beverages  
2035 containing not more than 17.259 percent of alcohol by volume and  
2036 wines regardless of alcoholic content, in counties where the  
2037 sale of intoxicating liquors, wines, and beers is permitted,  
2038 shall file with the division a surety bond acceptable to the  
2039 division in the sum of \$25,000, as surety for the payment of all  
2040 taxes; provided, however, that where in the discretion of the  
2041 division the amount of business done by such distributor is of  
2042 such volume that a bond of less than \$25,000 will be adequate to  
2043 secure the payment of all taxes assessed or authorized by the  
2044 Beverage Law the division may accept a bond in a less sum than  
2045 \$25,000 but in no event shall it accept a bond less than \$1,000  
2046 and it may at any time in its discretion require any bond in an  
2047 amount less than \$25,000 to be increased so as not to exceed  
2048 \$25,000; provided, further, that the amount of bond required for  
2049 a distributor in a county having a population of 15,000 or less  
2050 who procures a license by which his or her sales are restricted  
2051 to distributors and vendors who have obtained licenses in the  
2052 same county, shall be \$5,000.

2053 Section 52. Section 561.41, Florida Statutes, is amended to  
2054 read:

2055 561.41 Maintenance and designation of principal office by  
2056 manufacturers, distributors, importers, and exporters.—Each  
2057 licensed manufacturer, distributor, and importer and each  
2058 registered exporter must have within this state an office  
2059 designated as its principal office within this state and may

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2060 maintain branch offices within or without this state. The  
2061 principal and branch offices of each manufacturer, distributor,  
2062 and importer within this state must, during regular defined  
2063 business hours, be kept open for the inspection of authorized  
2064 employees of the division. Each registered exporter must provide  
2065 access to authorized employees of the division and the program  
2066 to all business premises, inventories, and records, including  
2067 all records of transporters, warehouses, and exporters required  
2068 by the Federal Government, for the purpose of conducting  
2069 semiannual audits and inventories. The division may adopt rules  
2070 to carry out the purposes of this section.

2071 Section 53. Section 561.49, Florida Statutes, is amended to  
2072 read:

2073 561.49 No tax on out-of-state sales.—The excise taxes  
2074 provided for in this chapter shall be paid as to all such  
2075 beverages sold within this state. No excise tax shall be  
2076 required to be paid by manufacturers, distributors, or exporters  
2077 as to the sale of beverages which are actually delivered by such  
2078 manufacturer, distributor, or exporter to persons outside the  
2079 state when such deliveries are actually made outside the state  
2080 in places where the sale of such beverages is authorized by law  
2081 to persons authorized by the laws of the places where such  
2082 delivery is made to purchase and receive such beverages in such  
2083 places. The burden shall always be on the manufacturer,  
2084 distributor, or exporter to show to the satisfaction of the  
2085 program ~~division~~ by bill of lading of a common carrier or other  
2086 satisfactory evidence that delivery was made outside the state  
2087 in accordance with the laws of the place of delivery.

2088 Section 54. Subsection (1) of section 561.50, Florida



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2089 Statutes, is amended to read:

2090 561.50 One state tax payment; reports.—

2091 (1) There shall be only one state tax paid as to each  
2092 gallon or fraction thereof of beverage sold under the Beverage  
2093 Law, and no other excise tax shall be levied directly or  
2094 indirectly. Such tax shall be computed from the reports, books,  
2095 and records of manufacturers and distributors; and the amount so  
2096 computed shall be remitted with the report required by s. 561.55  
2097 to the program division ~~division~~ at intervals of 1 month, on or before  
2098 the 10th of each month, for all beverages sold during the  
2099 previous calendar month, and such payment of tax shall accompany  
2100 the report required by s. 561.55. If the monthly tax liability  
2101 of a manufacturer or distributor exceeds the amount of the bond  
2102 furnished for payment of taxes, the program division, upon a  
2103 finding based upon substantial and competent evidence that the  
2104 security of the tax revenue involved is in jeopardy, may require  
2105 a bond equal to the anticipated tax liability of the  
2106 manufacturer or distributor. Additionally, the program division  
2107 may increase the frequency of the remittance of the tax when the  
2108 security of the tax involved is in immediate jeopardy or the  
2109 financial condition of the manufacturer or distributor is  
2110 unstable and the potential tax liability exceeds the bond  
2111 furnished under the Beverage Law. In arriving at a conclusion  
2112 that the security of the tax revenue involved is in jeopardy,  
2113 the program division ~~division~~ shall consider and be guided by the prior  
2114 history, if any, of the compliance or noncompliance by the  
2115 manufacturer or distributor with beverage tax obligations; the  
2116 transient or nontransient nature of the manufacturer or  
2117 distributorship; the type of inventory, the equity of the

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2118 manufacturer or distributor therein, and the mobility of such  
2119 inventory; the financial status of the manufacturer or  
2120 distributor; and the anticipated tax obligation of the  
2121 manufacturer or distributor.

2122 Section 55. Section 561.55, Florida Statutes, is amended to  
2123 read:

2124 561.55 Manufacturers', distributors', brokers', sales  
2125 agents', importers', vendors', and exporters' records and  
2126 reports.—

2127 (1) Each manufacturer, distributor, broker, sales agent,  
2128 importer, and exporter shall keep a complete and accurate record  
2129 and make reports showing the amount of:

2130 (a) Beverages manufactured or sold within the state and to  
2131 whom sold;

2132 (b) Beverages imported from beyond the limits of the state  
2133 and to whom sold;

2134 (c) Beverages exported beyond the limits of the state, to  
2135 whom sold, the place where sold, and the address of the person  
2136 to whom sold.

2137 (2) Each manufacturer, distributor, broker, sales agent,  
2138 and importer shall make a full and complete report by the 10th  
2139 day of each month for the previous calendar month. The report  
2140 shall be ~~made out in triplicate; two copies shall be sent to the~~  
2141 program division, and ~~a the third~~ copy shall be retained for the  
2142 manufacturer's, distributor's, broker's, sales agent's, or  
2143 importer's record. Reports shall be made on forms prepared and  
2144 furnished by the program division.

2145 (3) (a) Each manufacturer, distributor, broker, agent, and  
2146 importer licensed under the Beverage Law shall maintain and keep

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2147 for a period of 3 years at the licensed place of business such  
2148 records of alcoholic beverages received, sold, or delivered  
2149 within or without this state as may be required by the program  
2150 ~~division~~.

2151 (b) Each vendor shall keep records of all purchases and  
2152 other acquisitions of alcoholic beverages for a period of 3  
2153 years.

2154 (4) Each registered exporter shall supply to the program  
2155 ~~division~~ copies of all certified reports pertaining to  
2156 transporting, warehousing, and exporting alcoholic beverages  
2157 prepared for the Federal Government with all supporting  
2158 documents.

2159 (5) In addition to the reporting requirements in this  
2160 chapter, manufacturers, distributors, brokers, sales agents,  
2161 importers, and exporters must also provide the program with  
2162 information regarding sales to the retail dealers: the names,  
2163 addresses, retail beverage license numbers, and business partner  
2164 numbers; the invoice numbers; the dates the products were sold;  
2165 the quantity of each type of product sold; and the sales price  
2166 of each type of product sold on its monthly returns.

2167 Section 56. Section 561.57, Florida Statutes, is amended to  
2168 read:

2169 561.57 Deliveries by licensees.—

2170 (1) Vendors are ~~shall be~~ permitted to make deliveries away  
2171 from their places of business of sales actually made at the  
2172 licensed place of business; however provided, telephone,  
2173 electronic mail (e-mail), or mail orders received at vendor's  
2174 licensed place of business are ~~shall be~~ construed as a sale  
2175 actually made at the vendor's licensed place of business.

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2176 (2) Deliveries made by a manufacturer, distributor, or  
2177 vendor away from his or her place of business may be made ~~only~~  
2178 in vehicles which are owned or leased by the licensee. By  
2179 acceptance of an alcoholic beverage license and the use of such  
2180 vehicles, the licensee agrees that such vehicle shall always be  
2181 subject to be inspected and searched without a search warrant,  
2182 for the purpose of ascertaining that all provisions of the  
2183 alcoholic beverage laws are complied with, by authorized  
2184 employees of the division and also by sheriffs, deputy sheriffs,  
2185 and police officers during business hours or other times the  
2186 vehicle is being used to transport or deliver alcoholic  
2187 beverages.

2188 (3) Any vendor may transport alcoholic beverage purchases  
2189 from a distributor's place of business to the vendor's licensed  
2190 premises or off-premises storage, provided that a vehicle permit  
2191 or decal is attached to the vendor's owned or leased vehicle.

2192 (4) The division shall have prepared for issuance vehicle  
2193 permits or decals suitable to be attached to such vehicles, with  
2194 the words, "Beverage Vehicle No. . . . .," which may be obtained by  
2195 any vendor upon payment of a fee of \$5 to the division. Such  
2196 permits are ~~shall be~~ valid and will not expire unless the vendor  
2197 disposes of his or her vehicle, or the vendor's alcoholic  
2198 beverage license is transferred, canceled, not renewed, or is  
2199 revoked by the division, whichever occurs first. By acceptance  
2200 of a vehicle permit, the licensee agrees that such vehicle is  
2201 ~~shall~~ always be subject to be inspected and searched without a  
2202 search warrant, for the purpose of ascertaining that all  
2203 provisions of the alcoholic beverage laws are complied with, by  
2204 authorized employees of the division and also by sheriffs,

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2205 deputy sheriffs, and police officers during business hours or  
2206 other times the vehicle is being used to transport or deliver  
2207 alcoholic beverages.

2208 (5) ~~Nothing contained in~~ This section does not shall  
2209 prohibit deliveries by the licensee from his or her permitted  
2210 storage area or deliveries by a distributor from the  
2211 manufacturer to his or her licensed premises; nor shall a pool  
2212 buying agent be prohibited from transporting pool purchases to  
2213 the licensed premises of his or her members with the licensee's  
2214 owned or leased vehicles, and in such cases, no vehicle permit  
2215 is shall be required in the transporting of such alcoholic  
2216 beverages. In addition, a licensed salesperson of wine and  
2217 spirits is authorized to deliver alcoholic beverages in his or  
2218 her vehicle on behalf of the distributor without having to  
2219 obtain a vehicle permit.

2220 (6) Common carriers are not required to have vehicle  
2221 permits to transport alcoholic beverages.

2222 Section 57. Section 562.16, Florida Statutes, is amended to  
2223 read:

2224 562.16 Possession of beverages upon which tax is unpaid.—  
2225 Any person or corporation who shall own or have in her or his or  
2226 its possession any beverage upon which a tax is imposed by the  
2227 Beverage Law, or which would be imposed if such beverage were  
2228 manufactured in or brought into this state in accordance with  
2229 the regulatory provisions of the Beverage Law, and upon which  
2230 such tax has not been paid shall, in addition to the fines and  
2231 penalties otherwise provided in the Beverage Law, be personally  
2232 liable for the amount of the tax imposed on such beverage, and  
2233 the General Tax Administration Program Office within the

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2234 Department of Revenue ~~division~~ may collect such tax from such  
2235 person by suit or otherwise; provided, that this section shall  
2236 not apply to manufacturers or distributors licensed under the  
2237 Beverage Law, to state bonded warehouses or to common carriers;  
2238 provided, further, this section shall not apply to persons  
2239 possessing not in excess of 1 gallon of such beverages;  
2240 provided, the beverage shall have been purchased by said  
2241 possessor outside of the state in accordance with the laws of  
2242 the place where purchased and shall have been brought into this  
2243 state by said possessor. The burden of proof that such beverages  
2244 were purchased outside the state and in accordance with the laws  
2245 of the place where purchased in all cases shall be upon the  
2246 possessor of such beverages.

2247 Section 58. Section 562.20, Florida Statutes, is amended to  
2248 read:

2249 562.20 Monthly reports by common and other carriers of  
2250 beverages required.—

2251 (1) All common carriers of freight operating in the state  
2252 shall file monthly reports with the program ~~division~~ on forms to  
2253 be prepared by the program ~~division~~ which shall show in detail  
2254 all shipments of alcoholic beverages transported by them to or  
2255 from any point within the state.

2256 (2) Every other person, except manufacturers and  
2257 distributors licensed in this state who are required to make  
2258 reports under s. 561.55, who brings into the state from any  
2259 point without the state any alcoholic beverages, in amounts  
2260 exceeding 1 gallon in the aggregate, shall likewise file monthly  
2261 reports with the program ~~division~~ on the forms to be prepared by  
2262 the program ~~division~~, which shall show in detail all such

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2263 amounts of alcoholic beverages transported by them to any point  
2264 within the state from any point without the state. Every  
2265 licensee under this law who ships any alcoholic beverage to  
2266 points beyond the state shall file monthly reports with the  
2267 program ~~division~~ on forms to be prepared by the program  
2268 ~~division~~, which shall show in detail all shipments of alcoholic  
2269 beverages transported by them from any point within the state to  
2270 any point without the state.

2271 (3) Such reports shall show in detail the name of the  
2272 shipper and the consignee of each shipment and a description of  
2273 the kind and amount of each such shipment and shall be filed  
2274 monthly on or before the 15th of each month for the calendar  
2275 month previous.

2276 Section 59. Section 562.25, Florida Statutes, is amended to  
2277 read:

2278 562.25 State bonded warehouses.—

2279 (1) An ~~No~~ operator of a ~~any~~ storage warehouse may not ~~shall~~  
2280 accept for storage in such warehouse any alcoholic beverage  
2281 subject to tax under the Beverage Law until such operator shall  
2282 have obtained from the division a permit to store such beverage  
2283 and shall have filed a bond payable to the division, conditioned  
2284 upon the full compliance by such operator with the provisions of  
2285 this section. This section does ~~shall~~ not apply to a federal  
2286 bonded warehouse owned wholly by, and operated solely for, a  
2287 manufacturer or distributor licensed under the Beverage Law.  
2288 Such permit shall issue upon the payment of \$1 to the division,  
2289 and may be refused, suspended, or revoked in the same manner and  
2290 upon the same grounds that the license of a distributor may be  
2291 refused, suspended, or revoked. Such bond shall be in an amount

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2292 of not more than \$5,000 nor less than \$1,000, in the discretion  
2293 of the division, with a surety company licensed to do business  
2294 in the state as surety.

2295 (2) On or before the 10th day of each month the operator of  
2296 any state bonded warehouse shall report, on forms furnished by  
2297 the program ~~division~~, the amount of such beverages on deposit in  
2298 such warehouse on the last day of the previous calendar month  
2299 and the amount of such beverages deposited in and withdrawn from  
2300 such warehouse during the previous calendar month, except that  
2301 no report is ~~shall be~~ required as to such beverages on which all  
2302 taxes have been paid which have been deposited in storage by a  
2303 vendor licensed under the Beverage Law.

2304 Section 60. Section 562.41, Florida Statutes, is amended to  
2305 read:

2306 562.41 Searches; penalty.—

2307 (1) Any authorized employee of the division, program, any  
2308 sheriff, any deputy sheriff, or any police officer may make  
2309 searches of persons, places, and conveyances of any kind  
2310 whatsoever in accordance with the laws of this state for the  
2311 purpose of determining whether or not the provisions of the  
2312 Beverage Law are being violated.

2313 (2) Any authorized employee of the division or ~~or~~ program,  
2314 any sheriff, any deputy sheriff, or any police officer may enter  
2315 in the daytime any building or place where any beverages subject  
2316 to tax under the Beverage Law or which would be subject to tax  
2317 thereunder if such beverages were manufactured in or brought  
2318 into this state in accordance with the regulatory provisions  
2319 thereof, or any alcoholic beverages, are manufactured, produced,  
2320 or kept, so far as may be necessary, for the purpose of



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2321 examining the ~~said~~ beverages. When such premises are open at  
2322 night, such officers may enter them while so open, in the  
2323 performance of their official duties.

2324 (3) Any owner of such premises or person having the agency,  
2325 superintendency, or possession of same, who refuses to admit  
2326 such officer or to suffer her or him to examine such beverages,  
2327 commits ~~shall be guilty of~~ a misdemeanor of the second degree,  
2328 punishable as provided in s. 775.082 or s. 775.083.

2329 (4) Any person who shall forcibly obstruct or hinder the  
2330 director of the division or the director of the program, any  
2331 division or program employee, any sheriff, any deputy sheriff,  
2332 or any police officer in the execution of any power or authority  
2333 vested in her or him by law, or who shall forcibly rescue or  
2334 cause to be rescued any property if the same shall have been  
2335 seized by such officer, or shall attempt or endeavor to do so,  
2336 commits ~~shall be guilty of~~ a misdemeanor of the second degree,  
2337 punishable as provided in s. 775.082 or s. 775.083.

2338 (5) Licensees, by the acceptance of their license, agree  
2339 that their places of business shall always be subject to be  
2340 inspected and searched without search warrants by the authorized  
2341 employees of the division or program, and also by sheriffs,  
2342 deputy sheriffs, and police officers during business hours or at  
2343 any other time such premises are occupied by the licensee or  
2344 other persons.

2345 Section 61. Section 563.01, Florida Statutes, is amended to  
2346 read:

2347 563.01 Definition.—As used in this chapter, the terms:

2348 (1) ~~The terms~~ "Beer" and "malt beverage" mean all brewed  
2349 beverages containing malt.

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2350       (2) "Program" means the General Tax Administration Program  
2351 Office within the Department of Revenue.

2352       Section 62. Paragraph (b) of subsection (5) of section  
2353 563.06, Florida Statutes, is amended to read:

2354       563.06 Malt beverages; imprint on individual container;  
2355 size of containers; exemptions.—

2356       (5)

2357       (b) Before ~~Prior to~~ shipping individual containers of malt  
2358 beverages into the state which do not have the word "Florida" or  
2359 "FL" imprinted thereon, the manufacturer must file an  
2360 application with the division to claim the exemption contained  
2361 herein and must obtain approval from the division to ship  
2362 individual containers of malt beverages into the state which do  
2363 not have the word "Florida" or "FL" imprinted thereon.  
2364 Information furnished by the manufacturer to establish the  
2365 criteria contained within paragraph (a) may be subject to an  
2366 annual audit and verification by the program or the division.  
2367 The division may revoke an approved exemption if the  
2368 manufacturer refuses to furnish the information required in  
2369 paragraph (a) upon request of the division, or if the  
2370 manufacturer fails to permit a subsequent verification audit, or  
2371 if the manufacturer fails to fully cooperate with the division  
2372 or the program during the conducting of an audit.

2373       Section 63. Section 563.07, Florida Statutes, is amended to  
2374 read:

2375       563.07 Beer distributors' collection credit.—For the  
2376 purpose of allowing credit to licensed distributors of malt  
2377 beverages or beer for keeping prescribed records, furnishing  
2378 bond, and properly accounting for and remitting taxes due to the

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2379 state, such licensed distributors shall be allowed 2.5 percent  
2380 of the amount of the tax due, accounted for, and remitted to the  
2381 program division, in the form of a deduction from such  
2382 remittance. However, no allowance may be granted or permitted  
2383 when the tax is delinquent at the time of payment.

2384 Section 64. Subsection (3) is added to section 564.01,  
2385 Florida Statutes, to read:

2386 564.01 Definitions.—

2387 (3) "Program" means the General Tax Administration Program  
2388 Office within the Department of Revenue.

2389 Section 65. Subsections (7) and (9) of section 564.06,  
2390 Florida Statutes, are amended to read:

2391 564.06 Excise taxes on wines and beverages.—

2392 (7) Every distributor selling wine within the state shall  
2393 pay the tax to the program division monthly on or before the  
2394 10th day of the following month, less 1.9 percent of the tax  
2395 due, which shall be withheld by the distributor for keeping  
2396 prescribed records, furnishing bond, and properly accounting for  
2397 and remitting taxes due to the state. However, no allowance  
2398 shall be granted or permitted when the tax is delinquent at the  
2399 time of payment.

2400 (9) The program may department ~~is authorized to~~ adopt rules  
2401 to administer ~~effectuate the provisions of~~ this section.

2402 Section 66. Section 565.01, Florida Statutes, is amended to  
2403 read:

2404 565.01 Definition; liquor.—As used in this chapter, the  
2405 term:

2406 (1) The words "Liquor," "distilled spirits," "spirituous  
2407 liquors," "spirituous beverages," or "distilled spirituous

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2408 liquors" mean that substance known as ethyl alcohol, ethanol, or  
2409 spirits of wine in any form, including all dilutions and  
2410 mixtures thereof from whatever source or by whatever process  
2411 produced.

2412 (2) "Program" means the General Tax Administration Program  
2413 Office within the Department of Revenue.

2414 Section 67. Subsections (2), (3), and (9) of section  
2415 565.02, Florida Statutes, are amended to read:

2416 565.02 License fees; vendors; clubs; caterers; and others.—

2417 (2) Any operator of railroads or sleeping cars in this  
2418 state may obtain a license to sell the beverages mentioned in  
2419 the Beverage Law on passenger trains upon the payment of an  
2420 annual license tax of \$2,500, the tax to be paid to the  
2421 division. Such license shall authorize the holder thereof to  
2422 keep for sale and sell all beverages mentioned in the Beverage  
2423 Law upon any dining, club, parlor, buffet, or observation car  
2424 operated by it in this state, but such beverages may be sold  
2425 only to passengers upon the cars and must be served for  
2426 consumption thereon. It is unlawful for such licensees to  
2427 purchase or sell any liquor except in miniature bottles of not  
2428 more than 2 ounces. Every such license shall be good throughout  
2429 the state. No license shall be required, or tax levied by any  
2430 municipality or county, for the privilege of selling such  
2431 beverages for consumption in such cars. Such beverages shall be  
2432 sold only on cars in which are posted certified copies of the  
2433 licenses issued to such operator. Such certified copies of such  
2434 licenses shall be issued by the division upon the payment of a  
2435 tax of \$10.

2436 (3) (a) Operators of steamships and steamship lines, buses

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2437 and bus lines, or airplanes and airlines engaged in interstate  
2438 or foreign commerce or plying between fixed terminals and upon  
2439 fixed schedules in this state may obtain licenses to sell the  
2440 beverages mentioned in the Beverage Law:

2441 1. On steamships, buses, and airplanes operated by such  
2442 operators, upon the payment of an annual license tax of \$1,100;  
2443 and

2444 2. In no more than one passenger waiting lounge licensed by  
2445 the division and operated by an airline licensed herein at each  
2446 of its terminals in the state for ticketed passengers whose  
2447 flights are scheduled to depart within 24 hours of service and  
2448 guests in the company of such ticketholders, provided such  
2449 licensed airline has first obtained an appropriate space lease  
2450 or permit providing for payment of nondiscriminatory rental and  
2451 concession fees and upon the payment of an additional license  
2452 tax of \$1,100 per lounge.

2453  
2454 All such license taxes shall be paid to the division. Such  
2455 licenses shall authorize the holders thereof to keep for sale  
2456 and sell all beverages mentioned in the Beverage Law upon any  
2457 steamship, bus, or airplane or in any such airline passenger  
2458 waiting lounge operated by such operators in this state, but  
2459 such beverages may be sold only to passengers upon such  
2460 steamships, buses, and airplanes and to ticketed passengers and  
2461 their guests in such airline passenger waiting lounges and may  
2462 be served only for consumption on such steamships, buses, and  
2463 airplanes or in such airline passenger waiting lounges. It is  
2464 unlawful for such licensees to purchase for resale any liquor  
2465 except in miniature bottles of not more than 2 ounces or liquor

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2466 in individual containers of not less than one-fifth of 1 gallon.  
2467 Such sales are permitted while such steamships, buses, and  
2468 airplanes are in transit; but such sales are not permitted on  
2469 airplanes while such airplanes are in airports. Every such  
2470 license shall be good throughout the state. No license may be  
2471 required or tax levied by any municipality or county for the  
2472 privilege of selling such beverages for consumption on such  
2473 steamships, buses, or airplanes or in such airline passenger  
2474 waiting lounges. The division shall issue a license to sell  
2475 alcoholic beverages on steamships, buses, and airplanes to an  
2476 operator of a steamship line, bus line, or airline, at a central  
2477 location designated on the sworn application for license. The  
2478 application for initial issuance of such a license must specify  
2479 the number of steamships, buses, or airplanes in the fleet  
2480 scheduled by the operator of the line for operation in this  
2481 state. An application for renewal of such a license must specify  
2482 the total number of steamships, buses, or airplanes in the fleet  
2483 that operated in this state during the preceding license year.  
2484 In addition to the annual license tax imposed under this  
2485 subsection, a tax of \$25 is imposed for each steamship, bus, or  
2486 airplane which is disclosed on the application for license or  
2487 renewal of license. Upon the payment of all applicable license  
2488 taxes, each such steamship, bus, or airplane is considered a  
2489 licensed premises under the Beverage Law. However, this  
2490 paragraph does not apply to operators of pleasure, excursion,  
2491 sightseeing, or charter boats not having regular round-trip runs  
2492 of more than 100 miles in each direction; but operators of such  
2493 boats may obtain licenses, with such boats being designated as  
2494 their places of business, upon compliance with all the laws

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2495 relating to vendors operating places of business where  
2496 consumption on the premises is permitted. However, the operator  
2497 of any pleasure, excursion, sightseeing, or charter boat which  
2498 has a Coast Guard-approved capacity of at least 125 passengers  
2499 may be granted a special liquor license to sell and serve  
2500 alcoholic beverages to passengers during a period of no longer  
2501 than 1 hour prior to departure on a scheduled or chartered  
2502 cruise while the boat is docked at a docking facility or marina  
2503 and the period during which the boat is in operation on the  
2504 scheduled or chartered cruise for consumption on the premises  
2505 only. The fee for such special license shall be the same as that  
2506 charged pursuant to paragraphs (1)(b)-(f) based on the location  
2507 of the home port of the boat. Also, no license to sell the  
2508 beverages herein defined shall be issued to the operator of any  
2509 boat which plies upon or is anchored upon the waters of any lake  
2510 within this state.

2511 (b) Operators of railroads, sleeping cars, steamships,  
2512 buses, and airplanes licensed under this section shall not be  
2513 required to obtain their beverages from licensees under the  
2514 Beverage Law, but such operators shall keep strict accounts of  
2515 all such beverages sold within this state and shall make monthly  
2516 reports to the program ~~division~~ on the forms prepared and  
2517 furnished by the program ~~division~~. Such operators are required  
2518 to pay an excise tax for such beverages sold within this state  
2519 as to which such excise tax has not theretofore been paid, equal  
2520 to the tax assessed against manufacturers and distributors. Such  
2521 operators shall pay such tax monthly to the program ~~division~~ at  
2522 the same time they furnish the reports hereinabove provided for.  
2523 Such reports shall be filed on or before the 15th day of each

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2524 month for sales for the previous calendar month.

2525 (9) It is the finding of the Legislature that passenger  
2526 vessels engaged exclusively in foreign commerce are susceptible  
2527 to a distinct and separate classification for purposes of the  
2528 sale of alcoholic beverages under the Beverage Law. Upon the  
2529 filing of an application and payment of an annual fee of \$1,100,  
2530 the director is authorized to issue a permit authorizing the  
2531 operator, or, if applicable, his or her concessionaire, of a  
2532 passenger vessel which has cabin-berth capacity for at least 75  
2533 passengers, and which is engaged exclusively in foreign  
2534 commerce, to sell alcoholic beverages on the vessel for  
2535 consumption on board only:

2536 (a) During a period not in excess of 24 hours prior to  
2537 departure while the vessel is moored at a dock or wharf in a  
2538 port of this state; or

2539 (b) At any time while the vessel is located in Florida  
2540 territorial waters and is in transit to or from international  
2541 waters.

2542  
2543 One such permit shall be required for each such vessel and shall  
2544 name the vessel for which it is issued. No license shall be  
2545 required or tax levied by any municipality or county for the  
2546 privilege of selling beverages for consumption on board such  
2547 vessels. The beverages so sold may be purchased outside the  
2548 state by the permittee, and the same shall not be considered as  
2549 imported for the purposes of s. 561.14(3) solely because of such  
2550 sale. The permittee is not required to obtain its beverages from  
2551 licensees under the Beverage Law, but it shall keep a strict  
2552 account of all such beverages sold within this state and shall



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2553 make monthly reports to the program division on forms prepared  
2554 and furnished by the program division. A permittee who sells on  
2555 board the vessel beverages withdrawn from United States Bureau  
2556 of Customs and Border Protection bonded storage on board the  
2557 vessel may satisfy such accounting requirement by supplying the  
2558 program division with copies of the appropriate United States  
2559 Bureau of Customs and Border Protection forms evidencing such  
2560 withdrawals as importations under United States customs laws.  
2561 Such permittee shall pay to the state an excise tax for  
2562 beverages sold pursuant to this section, if such excise tax has  
2563 not previously been paid, in an amount equal to the tax which  
2564 would be required to be paid on such sales by a licensed  
2565 manufacturer or distributor. A vendor holding such permit shall  
2566 pay the tax monthly to the program division at the same time he  
2567 or she furnishes the required report. Such report shall be filed  
2568 on or before the 15th day of each month for the sales occurring  
2569 during the previous calendar month.

2570 Section 68. Subsection (4) of section 565.12, Florida  
2571 Statutes, is amended to read:

2572 565.12 Excise tax on liquors and beverages.—

2573 (4) The Department of Revenue may ~~department is authorized~~  
2574 ~~to~~ adopt rules to administer ~~effectuate the provisions of this~~  
2575 section.

2576 Section 69. Section 565.13, Florida Statutes, is amended to  
2577 read:

2578 565.13 Monthly payment of tax by distributor.—Every  
2579 distributor selling spirituous beverages within the state shall  
2580 pay the tax to the program division monthly on or before the  
2581 10th day of the following month, less 1.0 percent of the tax

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2582 due, which shall be withheld by the distributor for keeping  
2583 prescribed records, furnishing bond, and properly accounting for  
2584 and remitting taxes due to the state. However, no allowance may  
2585 be granted or permitted when the tax is delinquent at the time  
2586 of payment.

2587 Section 70. Section 568.10, Florida Statutes, is amended to  
2588 read:

2589 568.10 Confiscation of liquors.—Upon the arrest of any  
2590 person charged with a violation of any of the provisions of this  
2591 chapter, the arresting officer shall take into his or her  
2592 custody all of the intoxicating liquors, wines, or beer found in  
2593 the possession, custody or control of the person arrested, and  
2594 safely keep and preserve the same and have it forthcoming at any  
2595 investigation, prosecution or other proceeding for the violation  
2596 of any of the provisions of this chapter, and for the  
2597 destruction of same as is in this section provided. Upon the  
2598 conviction of the person arrested for the violation of any  
2599 provision of this chapter, the judge of the court trying the  
2600 case, after notice to the person convicted and any other person  
2601 who the judge may be of the opinion is entitled to notice, as  
2602 the judge may deem reasonable, shall issue to the sheriff of the  
2603 county, division, or authorized municipality a written order  
2604 adjudging and declaring such intoxicating liquors, wines, or  
2605 beer forfeited and directing the sheriff, division, or  
2606 authorized municipality to sell the liquors, wines, or beer to  
2607 any licensed wholesaler in the state upon the condition that the  
2608 intoxicating liquors, wines, and beer must be first inspected by  
2609 an employee of the program or division to ascertain that all  
2610 state taxes applicable have been paid. Sale shall be made,

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2611 however, only upon submission by the sheriff, division, or  
2612 authorized municipality of a request for bids to at least five  
2613 wholesalers in the state, and the sale shall be made to the  
2614 highest and best bidder; provided, however, if in the opinion of  
2615 the sheriff, division, or authorized municipality no  
2616 satisfactory bid from a wholesaler is received, bids may then be  
2617 rejected and the intoxicating liquors, wines, or beer so seized  
2618 and forfeited may be sold to any retailer licensed in this state  
2619 to sell such beverages provided that the sale shall be made only  
2620 upon submission by the sheriff, division, or authorized  
2621 municipality of a request for bids to at least five retail  
2622 dealers in the state and that the sale shall be made to the  
2623 highest and best bidder therefor; the order shall further  
2624 provide, in the event any forfeited liquors, wines, or beer  
2625 cannot be sold, that the sheriff, division, or authorized  
2626 municipality shall immediately destroy same or that the sheriff  
2627 or authorized municipality shall deliver same to the division  
2628 for the disposition as provided in s. 562.44. In the event that  
2629 the liquors, wines, or beer are to be destroyed under the order,  
2630 the destruction by the sheriff or authorized municipality shall  
2631 be in the presence of the clerk of the circuit court of the  
2632 county and at times, places and in the manner as the judge, in  
2633 his or her order, directs.

2634 Section 71. Present subsections (4) through (7) of section  
2635 569.002, Florida Statutes, are renumbered as subsections (5)  
2636 through (8), respectively, and new subsection (4) is added to  
2637 that section, to read:

2638 569.002 Definitions.—As used in this chapter, the term:

2639 (4) "Program" means the General Tax Administration Program

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2640 Office of the Department of Revenue.

2641 Section 72. Section 569.004, Florida Statutes, is amended  
2642 to read:

2643 569.004 Consent to inspection and search without warrant.—  
2644 An applicant for a permit, by accepting the permit when issued,  
2645 agrees that the place or premises covered by the permit is  
2646 subject to inspection and search without a search warrant by the  
2647 division or the program or their ~~its~~ authorized assistants, and  
2648 by sheriffs, deputy sheriffs, or police officers, to determine  
2649 compliance with this chapter.

2650 Section 73. Section 569.009, Florida Statutes, is amended  
2651 to read:

2652 569.009 Rulemaking authority.—The division shall adopt any  
2653 rules necessary to administer ~~and enforce the provisions of~~ this  
2654 chapter. The program may adopt any rules necessary for the  
2655 collection or audit of taxes and surcharges on tobacco products.

2656 Section 74. Section 213.05, Florida Statutes, is amended to  
2657 read:

2658 213.05 Department of Revenue; control and administration of  
2659 revenue laws.—The Department of Revenue shall have only those  
2660 responsibilities for ad valorem taxation specified to the  
2661 department in chapter 192, taxation, general provisions; chapter  
2662 193, assessments; chapter 194, administrative and judicial  
2663 review of property taxes; chapter 195, property assessment  
2664 administration and finance; chapter 196, exemption; chapter 197,  
2665 tax collections, sales, and liens; chapter 199, intangible  
2666 personal property taxes; and chapter 200, determination of  
2667 millage. The Department of Revenue shall have the responsibility  
2668 of regulating, controlling, and administering all revenue laws

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2669 and performing all duties as provided in s. 125.0104, the Local  
2670 Option Tourist Development Act; s. 125.0108, tourist impact tax;  
2671 chapter 198, estate taxes; chapter 201, excise tax on documents;  
2672 chapter 202, communications services tax; chapter 203, gross  
2673 receipts taxes; chapter 206, motor and other fuel taxes; chapter  
2674 210, for the function of collecting and auditing taxes and  
2675 surcharges on cigarette and tobacco products; chapter 211, tax  
2676 on production of oil and gas and severance of solid minerals;  
2677 chapter 212, tax on sales, use, and other transactions; chapter  
2678 220, income tax code; chapter 221, emergency excise tax; ss.  
2679 336.021 and 336.025, taxes on motor fuel and special fuel; s.  
2680 376.11, pollutant spill prevention and control; s. 403.718,  
2681 waste tire fees; s. 403.7185, lead-acid battery fees; s. 538.09,  
2682 registration of secondhand dealers; s. 538.25, registration of  
2683 secondary metals recyclers; chapters 561, 562, 563, 564, and  
2684 565, for the functions of collecting and auditing taxes on  
2685 alcoholic beverages; s. 624.4621, group self-insurer's fund  
2686 premium tax; s. 624.5091, retaliatory tax; s. 624.475,  
2687 commercial self-insurance fund premium tax; ss. 624.509-624.511,  
2688 insurance code: administration and general provisions; s.  
2689 624.515, State Fire Marshal regulatory assessment; s. 627.357,  
2690 medical malpractice self-insurance premium tax; s. 629.5011,  
2691 reciprocal insurers premium tax; and s. 681.117, motor vehicle  
2692 warranty enforcement.

2693 Section 75. The Legislature hereby finds that the failure  
2694 to promptly implement this act would present an immediate threat  
2695 to the welfare of the state because the revenues needed for  
2696 operation of the state would not be collected. Therefore, the  
2697 Department of Revenue and the Department of Business and

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2698 Professional Regulation are authorized and all conditions are  
2699 deemed met, to adopt emergency rules pursuant to ss. 120.536(1)  
2700 and 120.54, Florida Statutes, to administer this act. The  
2701 emergency rules shall remain in effect for 6 months after the  
2702 rules are adopted and the emergency rules may be renewed during  
2703 the pendency of procedures to adopt permanent rules addressing  
2704 the subject of the emergency rules.

2705 Section 76. This act shall take effect July 1, 2011.