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1                   A bill to be entitled  
2           An act relating to the surcharge on cigarettes;  
3           providing a short title; amending s. 210.011, F.S.;  
4           increasing the surcharge rates applicable to packages  
5           of cigarettes containing various quantities of  
6           cigarettes of specified weights and lengths;  
7           establishing a separate fee rollback account in a  
8           specified trust fund; requiring specified amounts of  
9           the surcharge on packages of cigarettes to be  
10          deposited in such separate fee rollback account;  
11          providing requirements and procedures with respect to  
12          the Legislature's anticipated use of such funds  
13          exclusively to incrementally roll back certain fee  
14          increases previously enacted; providing an effective  
15          date.

16  
17          WHEREAS, each day, nearly 4,000 children in the United  
18          States try their first cigarettes, and an additional 1,000  
19          children under 18 years of age become regular, daily smokers,  
20          amounting to nearly 400,000 new underage smokers each year, and

21          WHEREAS, the addiction rate for smoking is higher than the  
22          addiction rate for marijuana, alcohol, or cocaine, and symptoms  
23          of serious nicotine addiction often occur just weeks or even  
24          days after youth experimentation with smoking begins, and

25          WHEREAS, nearly 90 percent of all smokers begin while in  
26          their teens or earlier, and approximately one-third of all youth  
27          smokers will eventually die prematurely from smoking-related  
28          disease, and

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29 WHEREAS, research consistently confirms that policies that  
 30 raise cigarette prices reduce smoking, including underage  
 31 smoking, and

32 WHEREAS, lower smoking prevalence resulting from higher  
 33 cigarette prices reduces secondhand smoke exposure among  
 34 nonsmokers, especially children and pregnant women, and

35 WHEREAS, this state has had proven success in reducing  
 36 smoking rates through policies that increase the price of  
 37 cigarettes, and

38 WHEREAS, since 2009, when a \$1 surcharge was imposed on  
 39 each pack of cigarettes sold in this state, pack sales have  
 40 fallen by approximately 27 percent; the percentage of high  
 41 school students who smoke has declined by nearly one-fifth, from  
 42 14.3 percent to 11.9 percent; and the percentage of middle  
 43 school students who smoke has seen an even more precipitous  
 44 decline of more than one-third, from 5.4 percent to 3.5 percent,  
 45 and

46 WHEREAS, national economic research has shown that every  
 47 10-percent increase in the real price of cigarettes reduces  
 48 overall cigarette consumption by approximately 3 to 5 percent,  
 49 reduces the number of young adult smokers by 3.5 percent, and  
 50 reduces the number of children who smoke by 6 or 7 percent, and

51 WHEREAS, an additional tobacco surcharge would lead to even  
 52 better public health, decrease the number of premature deaths  
 53 caused by smoking, and prevent many youth from ever becoming  
 54 smokers, NOW, THEREFORE,

55

56 Be It Enacted by the Legislature of the State of Florida:

57  
58 Section 1. Short title.—This act may be cited as the  
59 "Youth Smoking Prevention Act."

60 Section 2. Section 210.011, Florida Statutes, is amended  
61 to read:

62 210.011 Cigarette surcharge levied; collection.—

63 (1) A surcharge, in addition to all other taxes of every  
64 kind levied by law, is levied upon the sale, receipt, purchase,  
65 possession, consumption, handling, distribution, and use of  
66 cigarettes in this state, in the following amounts, except as  
67 otherwise provided in subsections (2)-(5), for cigarettes of  
68 standard dimensions:

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

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

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

77 (2) The descriptions of cigarettes contained in subsection  
78 (1) are declared to be standard as to dimensions for the purpose  
79 of levying a surcharge as provided in this section. If any  
80 cigarette is received, purchased, possessed, sold, offered for  
81 sale, given away, or used which is of a size other than those  
82 standard dimensions, the cigarette is subject to a surcharge at  
83 the rate of 4.2 cents on each cigarette.

84 (3) When cigarettes as described in paragraph (1) (a) are

85 | packed in varying quantities of 20 cigarettes or fewer, except  
 86 | the manufacturer's free samples authorized under s. 210.04(9),  
 87 | the following rates shall govern:

88 |       (a) Packages containing 10 cigarettes or fewer require a  
 89 | surcharge of \$1 ~~50 cents~~.

90 |       (b) Packages containing more than 10 but not more than 20  
 91 | cigarettes require a surcharge of \$2 ~~\$1~~.

92 |       (4) When cigarettes as described in paragraph (1)(b) are  
 93 | packed in varying quantities of 20 cigarettes or fewer, except  
 94 | the manufacturer's free samples authorized under s. 210.04(9),  
 95 | the following rates shall govern:

96 |       (a) Packages containing 10 cigarettes or fewer require a  
 97 | surcharge of \$2 ~~\$1~~.

98 |       (b) Packages containing more than 10 but not more than 20  
 99 | cigarettes require a surcharge of \$3 ~~\$2~~.

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

104 |       (a) Packages containing 10 cigarettes or fewer require a  
 105 | surcharge of \$3 ~~\$2~~.

106 |       (b) Packages containing more than 10 but not more than 20  
 107 | cigarettes require a surcharge of \$5 ~~\$4~~.

108 |       (6) This surcharge shall be paid by the dealer to the  
 109 | division for deposit and distribution as hereinafter provided  
 110 | upon the first sale or transaction within the state, whether  
 111 | such sale or transfer is to the ultimate purchaser or consumer.  
 112 | The seller or dealer shall collect the surcharge from the

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113 purchaser or consumer, and the purchaser or consumer shall pay  
114 the surcharge to the seller. The seller or dealer is responsible  
115 for the collection of the surcharge and payment of the surcharge  
116 to the division. All surcharges are due not later than the 10th  
117 day of the month following the calendar month in which they were  
118 incurred, and thereafter shall bear interest at the rate of 1  
119 percent per month. If the amount of surcharge due for a given  
120 period is assessed without allocating it to any particular  
121 month, the interest begins accruing on the date of the  
122 assessment. Whenever cigarettes are shipped from outside the  
123 state to anyone other than a distributing agent or wholesale  
124 dealer, the person receiving the cigarettes is responsible for  
125 the surcharge on the cigarettes and payment of the surcharge to  
126 the division.

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

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

132 (9) (a) Except as provided in paragraph (b), revenue  
133 produced from the surcharge levied under this section shall be  
134 deposited into the Health Care Trust Fund within the Agency for  
135 Health Care Administration.

136 (b)1. There is established within the Highway Safety  
137 Operating Trust Fund within the Department of Highway Safety and  
138 Motor Vehicles a fee rollback account, which must be maintained  
139 as a separate account within the trust fund.

140 2. One dollar of revenue produced from the surcharge

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141 levied on each package of cigarettes described in paragraph  
142 (3)(b) and subsections (4) and (5) and 50 cents from the  
143 surcharge levied on each package of cigarettes described in  
144 paragraph (3)(a) shall be deposited in the fee rollback account  
145 to be held in reserve until the Florida Consensus Estimating  
146 Conference provides formal written certification to the  
147 Legislative Budget Commission that the conference's official  
148 estimates project that adequate revenues exist in the fee  
149 rollback account to support the incremental rollback of fee  
150 increases enacted by the Legislature in chapter 2009-71, Laws of  
151 Florida. Thereafter, the Legislative Budget Commission may  
152 approve requests to transfer or direct the transfer of revenues  
153 from the fee rollback account to the General Revenue Fund or  
154 other appropriate trust funds, where such transferred funds  
155 shall remain unallocated in anticipation of, and exclusively  
156 for, use by the Legislature for the appropriation of funds to  
157 incrementally roll back the fee increases enacted in chapter  
158 2009-71, Laws of Florida.

159 Section 3. This act shall take effect July 1, 2012.