



495716

LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: SEN1/C
03/09/2012 09:47 AM	.	03/09/2012 04:11 PM
	.	

Senator Jones moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (9) of section 210.01, Florida
Statutes, is amended to read:

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

(9) "Agent" means any person authorized by the Division of
Alcoholic Beverages and Tobacco to purchase and affix adhesive
~~or meter~~ stamps under this part.

Section 2. Subsection (1) of section 210.05, Florida
Statutes, is amended to read:



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14 210.05 Preparation and sale of stamps; discount.-

15 (1) The tax imposed by this part shall be paid by affixing
16 stamps in the manner herein set forth ~~or by affixing stamp~~
17 ~~insignia through the device of metering machines authorized in~~
18 ~~this part.~~

19 Section 3. Section 210.07, Florida Statutes, is amended to
20 read:

21 210.07 ~~Metering~~ Machines.-

22 ~~(1)(a) The tax may also be paid through the use of~~
23 ~~cigarette tax stamp insignia to be applied by the use of~~
24 ~~metering machines. The division shall prescribe and promulgate~~
25 ~~appropriate rules and regulations governing the use of metering~~
26 ~~machines, the procedure for the payment of such cigarette taxes~~
27 ~~through the use thereof, requiring adequate surety bonds of the~~
28 ~~users thereof to assure the proper use of such machines and~~
29 ~~payment of all cigarette taxes that might come due by the users~~
30 ~~thereof, and all other rules and regulations necessary and~~
31 ~~proper to govern the use of same.~~

32 ~~(b) The provisions of s. 210.05(3)(a) and (b) shall be~~
33 ~~applicable to cigarette taxes paid through the use of metering~~
34 ~~machines.~~

35 ~~(2) All provisions of this part governing the use of~~
36 ~~cigarette tax stamps, the compiling of records, the making of~~
37 ~~reports, permits and revocation of permits, seizures and~~
38 ~~forfeitures, penalties, and all other provisions pertaining to~~
39 ~~the payment of cigarette taxes through the use of stamps, shall~~
40 ~~likewise be applicable to the payment of said taxes through the~~
41 ~~use of metering machines.~~

42 ~~(1)(3) Wholesale or~~ Retail dealers of cigarettes owning,



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43 leasing, furnishing, or operating cigarette vending machines
44 shall affix to each such machine, in a conspicuous place, an
45 identification sticker furnished by the division. Every sticker
46 shall show the vending machine serial number and the name and
47 address of the cigarette ~~wholesale or~~ retail dealer owning,
48 leasing, furnishing, or operating the said vending machine.

49 (2)-(4) A person may not operate a No vending machine shall
50 ~~be allowed to operate~~ in the state unless ~~that does not have~~
51 ~~affixed thereto~~ the identification sticker required by this
52 section is affixed to the vending machine. A person may not
53 operate a nor shall any vending machine ~~be allowed to operate~~ in
54 the state which ~~that~~ does not display at all times at least one
55 package of each brand of the packages located therein so the
56 same are clearly visible and arranged in such a manner that the
57 cigarette tax stamps ~~or meter impressions of stamps~~ affixed
58 thereto are clearly visible. A ~~It shall be the duty of any~~
59 person, firm, or corporation operating a cigarette vending
60 machine in this state must ~~to~~ furnish to the division the
61 location of the vending machine and ~~to~~ report within 30 days to
62 the division any change of location of the vending machine.

63 Section 4. Section 210.11, Florida Statutes, is amended to
64 read:

65 210.11 Refunds; sales of stamps and payment of tax.-
66 Whenever any cigarettes upon which stamps have been placed, ~~or~~
67 ~~upon which the tax has been paid by metering machine,~~ have been
68 sold and shipped into another state for sale or use therein, or
69 have become unfit for use and consumption or unsalable, or have
70 been destroyed, the dealer involved shall be entitled to a
71 refund or credit of the actual amount of the tax paid with



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72 respect to such cigarettes less any discount allowed by the
73 division in the sale of the stamps ~~or payment of the tax by~~
74 ~~metering machine~~, upon receipt of satisfactory evidence of the
75 dealer's right to receive such refund or credit, provided
76 application for refund or credit is made within 9 months after
77 ~~of~~ the date the cigarettes were shipped out of the state, became
78 unfit, or were destroyed. Only the division shall sell, or offer
79 for sale, any stamp or stamps issued under this part. The
80 division may redeem unused stamps lawfully in the possession of
81 any person. The division may prescribe necessary rules ~~and~~
82 ~~regulations~~ concerning refunds, credits, sales of stamps, and
83 redemptions under the provisions of this part. Appropriation is
84 hereby made out of revenues collected under this part for
85 payment of such allowances.

86 Section 5. Subsection (1) of section 210.12, Florida
87 Statutes, is amended to read:

88 210.12 Seizures; forfeiture proceedings.—

89 (1) The state, acting by and through the division, may
90 ~~shall be authorized and empowered to~~ seize, confiscate, and
91 forfeit any cigarettes upon which taxes payable hereunder may be
92 unpaid or which ~~that~~ are otherwise held in violation of the
93 requirements of this chapter, and also any vending machine or
94 receptacle in which cigarettes upon which taxes have not been
95 paid are held for sale, or any vending machine that does not
96 have affixed thereto the identification sticker required by ~~the~~
97 ~~provisions of s. 210.07, or~~ that ~~which~~ does not display at all
98 times at least one package of each brand of cigarettes located
99 therein so the same is clearly visible and arranged in such a
100 manner that the cigarette tax stamp ~~or meter impression of the~~



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101 ~~stamp~~ affixed thereto is clearly visible. Such seizure may be
102 made by the division, its duly authorized representative, any
103 sheriff or deputy sheriff, or any police officer.

104 Section 6. Subsection (2) of section 210.15, Florida
105 Statutes, is amended to read:

106 210.15 Permits.—

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

110 Section 7. Subsection (3) of section 210.18, Florida
111 Statutes, is amended to read:

112 210.18 Penalties for tax evasion; reports by sheriffs.—

113 (3) Any person who falsely or fraudulently makes, forges,
114 alters, or counterfeits any stamp ~~or impression die used in~~
115 ~~meter machines~~ prescribed by the division under the provisions
116 of this part; ~~or, with intent to evade taxes, jams, tampers~~
117 ~~with, or alters such a machine;~~ or causes or procures to be
118 falsely or fraudulently made, forged, altered, or counterfeited
119 any such stamp ~~or die;~~ or knowingly and willfully utters,
120 purchases, passes or tenders as true any such false, altered, or
121 counterfeited stamp ~~or die impression;~~ or, with the intent to
122 defraud the state, fails to comply with any other requirement of
123 this part commits a felony of the third degree, punishable as
124 provided in s. 775.082, s. 775.083, or s. 775.084.

125 Section 8. Subsection (2) of section 455.271, Florida
126 Statutes, is amended to read:

127 455.271 Inactive and delinquent status.—

128 (2) Each board, or the department when there is no board,
129 shall permit a licensee to choose, at the time of licensure



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130 renewal, an active or inactive status. ~~However, a licensee who~~
131 ~~changes from inactive to active status is not eligible to return~~
132 ~~to inactive status until the licensee thereafter completes a~~
133 ~~licensure cycle on active status.~~

134 Section 9. Subsection (3) of section 475.02, Florida
135 Statutes, is amended to read:

136 475.02 Florida Real Estate Commission.-

137 (3) Notwithstanding s. 112.313, any member of the
138 commission who is a licensed real estate broker or sales
139 associate and who holds an active real estate school permit,
140 ~~chief administrator permit,~~ school instructor permit, or any
141 combination of such permits issued by the department, to the
142 extent authorized pursuant to such permit, may offer, conduct,
143 or teach any course prescribed or approved by the commission or
144 the department.

145 Section 10. Subsection (2) of section 475.180, Florida
146 Statutes, is amended to read:

147 475.180 Nonresident licenses.-

148 ~~(2) (a) Any applicant who is not a resident of this state~~
149 ~~shall file an irrevocable consent that suits and actions may be~~
150 ~~commenced against her or him in any county of this state in~~
151 ~~which a plaintiff having a cause of action or suit against her~~
152 ~~or him resides, and that service of any process or pleading in~~
153 ~~suits or actions against her or him may be made by delivering~~
154 ~~the process or pleading to the director of the Division of Real~~
155 ~~Estate by certified mail, return receipt requested, and also to~~
156 ~~the licensee by registered mail addressed to the licensee at her~~
157 ~~or his designated principal place of business. Service, when so~~
158 ~~made, must be taken and held in all courts to be as valid and~~



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159 ~~binding upon the licensee as if made upon her or him in this~~
160 ~~state within the jurisdiction of the court in which the suit or~~
161 ~~action is filed. The irrevocable consent must be in a form~~
162 ~~prescribed by the department and be acknowledged before a notary~~
163 ~~public.~~

164 (a) ~~(b)~~ Any resident licensee who becomes a nonresident
165 shall, within 60 days, notify the commission of the change in
166 residency and comply with nonresident requirements. Failure to
167 notify and comply is a violation of the license law, subject to
168 the penalties in s. 475.25.

169 (b) ~~(c)~~ All nonresident applicants and licensees shall
170 comply with all requirements of commission rules and this part.
171 The commission may adopt rules necessary for the regulation of
172 nonresident licensees.

173 Section 11. Subsection (2) of section 475.451, Florida
174 Statutes, is amended to read:

175 475.451 Schools teaching real estate practice.—

176 (2) An applicant for a permit to operate a proprietary real
177 estate school, ~~to be a chief administrator of a proprietary real~~
178 ~~estate school or a state institution,~~ or to be an instructor for
179 a proprietary real estate school or a state institution must
180 meet the qualifications for practice set forth in s. 475.17(1)
181 and the following minimal requirements:

182 (a) "School permitholder" means the individual who is
183 responsible for directing the overall operation of a proprietary
184 real estate school. A school permitholder must be the holder of
185 a license as a broker, either active or voluntarily inactive, or
186 must have passed an instructor's examination approved by the
187 commission. A school permitholder must also meet the



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188 requirements of a school instructor if actively engaged in
189 teaching.

190 ~~(b) "Chief administrative person" means the individual who~~
191 ~~is responsible for the administration of the overall policies~~
192 ~~and practices of the institution or proprietary real estate~~
193 ~~school. A chief administrative person must also meet the~~
194 ~~requirements of a school instructor if actively engaged in~~
195 ~~teaching.~~

196 (b) ~~(e)~~ "School instructor" means an individual who
197 instructs persons in the classroom in noncredit college courses
198 in a college, university, or community college or courses in a
199 career center or proprietary real estate school.

200 1. Before commencing to provide such instruction, the
201 applicant must certify the applicant's competency and obtain an
202 instructor permit by meeting one of the following requirements:

203 a. Hold a bachelor's degree in a business-related subject,
204 such as real estate, finance, accounting, business
205 administration, or its equivalent and hold a valid broker's
206 license in this state.

207 b. Hold a bachelor's degree, have extensive real estate
208 experience, as defined by rule, and hold a valid broker's
209 license in this state.

210 c. Pass an instructor's examination approved by the
211 commission.

212 2. Any requirement by the commission for a teaching
213 demonstration or practical examination must apply to all school
214 instructor applicants.

215 3. The department shall renew an instructor permit upon
216 receipt of a renewal application and fee. The renewal



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217 application shall include proof that the permitholder has, since
218 the issuance or renewal of the current permit, successfully
219 completed a minimum of 7 classroom hours of instruction in real
220 estate subjects or instructional techniques, as prescribed by
221 the commission. The commission shall adopt rules providing for
222 the renewal of instructor permits at least every 2 years. Any
223 permit that ~~which~~ is not renewed at the end of the permit period
224 established by the department ~~shall~~ automatically reverts ~~revert~~
225 to involuntarily inactive status.

226

227 The department may require an applicant to submit names of
228 persons having knowledge concerning the applicant and the
229 enterprise; may propound interrogatories to such persons and to
230 the applicant concerning the character of the applicant,
231 including the taking of fingerprints for processing through the
232 Federal Bureau of Investigation; and shall make such
233 investigation of the applicant or the school or institution as
234 it may deem necessary to the granting of the permit. If an
235 objection is filed, it shall be considered in the same manner as
236 objections or administrative complaints against other applicants
237 for licensure by the department.

238 Section 12. Subsection (7) of section 475.6235, Florida
239 Statutes, is repealed.

240 Section 13. Subsection (2) of section 475.631, Florida
241 Statutes, is amended to read:

242 475.631 Nonresident licenses and certifications.—

243 ~~(2)(a) An applicant who is not a resident of this state~~
244 ~~shall file an irrevocable consent that suits and actions may be~~
245 ~~commenced against her or him in any county of this state in~~



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246 ~~which a plaintiff having a cause of action or suit against her~~
247 ~~or him resides and that service of any process or pleading in~~
248 ~~suits or actions against her or him may be made by delivering~~
249 ~~the process or pleading to the director of the Division of Real~~
250 ~~Estate by certified mail, return receipt requested, and also to~~
251 ~~the certified appraiser or licensee by registered mail addressed~~
252 ~~to the certified appraiser or licensee at her or his designated~~
253 ~~principal place of business. Service, when so made, must be~~
254 ~~taken and held in all courts to be as valid and binding upon the~~
255 ~~certified appraiser or licensee as if made upon her or him in~~
256 ~~this state within the jurisdiction of the court in which the~~
257 ~~suit or action is filed. The irrevocable consent must be in a~~
258 ~~form prescribed by the department and be acknowledged before a~~
259 ~~notary public.~~

260 (a) ~~(b)~~ Any resident state-certified appraiser who becomes a
261 nonresident shall, within 60 days, notify the board of the
262 change in residency and comply with nonresident requirements.
263 Failure to notify and comply is a violation of the license law,
264 subject to the penalties in s. 475.624.

265 (b) ~~(c)~~ All nonresident applicants, certified appraisers,
266 and licensees shall comply with all requirements of board rules
267 and this part. The board may adopt rules pursuant to ss.
268 120.536(1) and 120.54 necessary for the regulation of
269 nonresident certified appraisers and licensees.

270 Section 14. Section 476.124, Florida Statutes, is repealed.

271 Section 15. Section 561.23, Florida Statutes, is amended to
272 read:

273 561.23 License issued in duplicate; display.-

274 ~~(1) Licenses shall be issued in duplicate. The original~~



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275 ~~license shall be delivered to the licensee; and one copy shall~~
276 ~~be retained by the division.~~

277 (2) All vendors licensed under the Beverage Law shall
278 display their licenses in conspicuous places on their licensed
279 premises.

280 Section 16. Section 565.07, Florida Statutes, is amended to
281 read:

282 565.07 Sale or consumption of certain distilled spirits
283 prohibited.—A No distilled spirit greater than 153 proof may not
284 shall be sold, processed, or consumed in the state. However, a
285 distilled spirit greater than 153 proof may be distilled,
286 bottled, packaged, or processed for export or sale outside the
287 state.

288 Section 17. This act shall take effect upon becoming a law.
289
290

291 ===== T I T L E A M E N D M E N T =====

292 And the title is amended as follows:

293 Delete everything before the enacting clause
294 and insert:

295 A bill to be entitled

296 An act relating to the Department of Business and
297 Professional Regulation; amending s. 210.01, F.S.;
298 redefining the term "agent" as it relates to the
299 cigarette tax, to conform to changes made by the act;
300 amending s. 210.05, F.S.; deleting a provision that
301 allows the cigarette tax to be paid by affixing a
302 stamp insignia through a metering machine; amending s.
303 210.07, F.S.; deleting provisions authorizing the use



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304 of metering machines; requiring retail dealers of
305 cigarettes, rather than wholesale dealers, to affix to
306 each such machine, in a conspicuous place, an
307 identification sticker furnished by the Division of
308 Alcoholic Beverages and Tobacco within the Department
309 of Business and Professional Regulation; amending ss.
310 210.11 and 210.12, F.S.; conforming provisions to
311 changes made by the act; amending s. 210.15, F.S.;

312 deleting a provision that prohibited the division from
313 approving the use of meter machines to evidence the
314 payment of the taxes on cigarettes except to qualified
315 wholesale dealers; amending s. 210.18, F.S.;

316 conforming provisions regarding penalties relating to
317 the use of metering machines; amending s. 455.271,
318 F.S.; deleting a provision that provides that a
319 licensee of the department who changes from inactive
320 to active status is not eligible to return to inactive
321 status until the licensee thereafter completes a
322 licensure cycle on active status; amending s. 475.02,
323 F.S.; conforming a provision to changes made by the
324 act; amending s. 475.180, F.S.; deleting a provision
325 that requires an applicant for a real estate license
326 who is not a resident of this state to file an
327 irrevocable consent regarding lawsuits and actions
328 commenced against the applicant; deleting provisions
329 prescribing the method of service of process; amending
330 s. 475.451, F.S.; deleting the requirement that an
331 applicant to be chief administrator of a proprietary
332 real estate school or state institution meet certain



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333 qualifications for licensure as a broker associate or
334 sales associate and other minimal requirements;
335 deleting the definition of the term "chief
336 administrative person" as it relates to schools
337 teaching real estate practice; repealing s.
338 475.6235(7), F.S., relating to a nonresidential
339 applicant's requirement to file an irrevocable consent
340 regarding lawsuits and actions against an appraisal
341 management company; amending s. 475.631, F.S.;
342 deleting the provision that requires an applicant for
343 licensure as an appraiser who is not a resident of
344 this state to file an irrevocable consent regarding
345 lawsuits and actions commenced against the applicant;
346 deleting the method of service of process; repealing
347 s. 476.124, F.S., relating to certain application
348 requirements for licensing examinations in barbering;
349 amending s. 561.23, F.S.; deleting the requirement
350 that licenses issued under the Beverage Law be issued
351 in duplicate; amending s. 565.07, F.S.; allowing
352 certain high-proof distilled spirits to be distilled,
353 bottled, packaged, or processed for export or sale
354 outside this state; providing an effective date.