

By Senator Evers

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1 A bill to be entitled
2 An act relating to tax-exempt cigarettes; amending s.
3 210.05, F.S.; authorizing agents and wholesale dealers
4 to sell stamped and untaxed cigarettes to the Seminole
5 Tribe of Florida or its members; authorizing agents
6 and wholesale dealers to file a claim with the
7 Division of Alcoholic Beverages and Tobacco within the
8 Department of Business and Professional Regulation for
9 a refund of specified taxes and surcharges; repealing
10 s. 210.1801, F.S., relating to tax-exempt cigarettes
11 for members of recognized Indian tribes; providing an
12 effective date.

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14 WHEREAS, in April 1977, the first smoke shop selling tax-
15 exempt cigarettes to the public was opened by the Seminole Tribe
16 of Florida, and

17 WHEREAS, the smoke shop remained open pursuant to a Florida
18 court ruling that Federal law prohibited state taxation of such
19 sales, and

20 WHEREAS, in 1979, the Legislature authorized the Seminole
21 Tribe of Florida to sell tax-exempt cigarettes to the public
22 through the adoption of s. 210.05(5), Florida Statutes, and

23 WHEREAS, from 1979 until 2009, the Seminole Tribe of
24 Florida successfully operated smoke shops selling tax-exempt
25 cigarettes to the public, and

26 WHEREAS, in 2009, the Legislature enacted ch. 2009-79, Laws
27 of Florida, effectively repealing the Seminole Tribe of
28 Florida's authority to sell tax-exempt cigarettes to the public,
29 but continuing to allow the sale of tax-exempt cigarettes to

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30 tribal members only, and

31 WHEREAS, under current law, the Seminole Tribe of Florida
32 is authorized to receive tax-exempt cigarettes based on its
33 "probable demand" for cigarettes, which is defined as five
34 packages of cigarettes per day for every man, woman, and child
35 member of the tribe and which annually amounts to more than 7
36 million packages of cigarettes for approximately 4,000 tribal
37 members, and

38 WHEREAS, the tax-exempt cigarette sales program is
39 implemented by the state through the provision of excise and
40 surcharge exemption coupons in an amount equal to the Seminole
41 Tribe of Florida's "probable demand" which are used to buy tax-
42 exempt cigarettes from a wholesale dealer who submits the
43 coupons to the Division of Alcoholic Beverages and Tobacco for a
44 refund of taxes paid by the wholesale dealer, and

45 WHEREAS, the Seminole Tribe of Florida should be authorized
46 to resume the sale of tax-exempt cigarettes to the public and to
47 use the income for tribal health care programs, including, but
48 not limited to, the creation of a Tribal Comprehensive Tobacco
49 Education and Use Prevention Program modeled after the program
50 created under s. 381.84, Florida Statutes, and for the
51 construction and expansion of medical facilities to increase the
52 quality of health care services available to all tribal members,
53 especially those members on remote reservations who are
54 currently underserved, NOW, THEREFORE,

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

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58 Section 1. Subsection (5) of section 210.05, Florida

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59 Statutes, is amended, and subsection (6) is added to that
60 section, to read:

61 210.05 Preparation and sale of stamps; discount.-

62 (5) An agent or wholesale dealer may sell stamped and
63 untaxed cigarettes sold to the Seminole Indian Tribe of Florida
64 or its members for retail sale. With respect to reporting and
65 stamping, the agent or wholesale dealer shall treat the
66 cigarettes and sale thereof in the same manner as other sales
67 under this part. The agent or wholesale dealer may not collect
68 the cigarette excise tax imposed under s. 210.02 or s. 210.30 or
69 the cigarette surcharge imposed under s. 210.011 or s. 210.276
70 from a purchaser under this subsection. The purchaser is
71 responsible to the agent or wholesale dealer for expenses
72 incurred in affixing and accounting for the stamps shall be
73 administered as provided in s. 210.1801.

74 (6) An agent or wholesale dealer may file a claim for a
75 refund and receive reimbursement from the division for the
76 cigarette excise tax or surcharge paid by the agent or wholesale
77 dealer on cigarettes that the agent or wholesale dealer sells to
78 the Seminole Tribe of Florida or its members pursuant to this
79 section.

80 Section 2. Section 210.1801, Florida Statutes, is repealed.

81 Section 3. This act shall take effect July 1, 2015.