

1 A bill to be entitled
 2 An act relating to cigarette surcharge and tax;
 3 amending ss. 210.011 and 210.02, F.S.; revising
 4 provisions relating to the surcharge and tax on the
 5 sale, receipt, purchase, possession, consumption,
 6 handling, distribution, and use of cigarettes;
 7 defining the term "standard package of cigarettes";
 8 amending s. 210.04, F.S.; deleting a provision that
 9 authorizes the Division of Alcoholic Beverages and
 10 Tobacco of the Department of Business and Professional
 11 Regulation to authorize manufacturers to distribute
 12 free sample packages of cigarettes; amending ss.
 13 210.06, 210.085, and 215.5602, F.S.; conforming
 14 provisions; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 210.011, Florida Statutes, is amended
 19 to read:

20 210.011 Cigarette surcharge levied; collection.—

21 (1) A surcharge of \$2, in addition to all other taxes of
 22 every kind levied by law, is levied upon the sale, receipt,
 23 purchase, possession, consumption, handling, distribution, and
 24 use of cigarettes in this state, ~~in the following amounts,~~
 25 ~~except as otherwise provided in subsections (2)–(5),~~ for a
 26 standard package of cigarettes. For purposes of this section,

27 | the term "standard package of cigarettes" means a package of 20
 28 | cigarettes, pursuant to 21 C.F.R. s. 1140.16(b) of standard
 29 | dimensions:

30 | ~~(a) Upon all cigarettes weighing not more than 3 pounds~~
 31 | ~~per thousand, 5 cents on each cigarette.~~

32 | ~~(b) Upon all cigarettes weighing more than 3 pounds per~~
 33 | ~~thousand and not more than 6 inches long, 10 cents on each~~
 34 | ~~cigarette.~~

35 | ~~(c) Upon all cigarettes weighing more than 3 pounds per~~
 36 | ~~thousand and more than 6 inches long, 20 cents on each~~
 37 | ~~cigarette.~~

38 | (2) An additional surcharge of 4.2 cents is levied upon
 39 | each ~~The descriptions of cigarettes contained in subsection (1)~~
 40 | ~~are declared to be standard as to dimensions for the purpose of~~
 41 | ~~levying a surcharge as provided in this section. If any~~
 42 | ~~cigarette that is received, purchased, possessed, sold, offered~~
 43 | ~~for sale, given away, or used in which is of a package size~~
 44 | ~~other than a those standard package of cigarettes dimensions,~~
 45 | ~~the cigarette is subject to a surcharge at the rate of 4.2 cents~~
 46 | ~~on each cigarette.~~

47 | ~~(3) When cigarettes as described in paragraph (1) (a) are~~
 48 | ~~packed in varying quantities of 20 cigarettes or fewer, except~~
 49 | ~~the manufacturer's free samples authorized under s. 210.04(9),~~
 50 | ~~the following rates shall govern:~~

51 | ~~(a) Packages containing 10 cigarettes or fewer require a~~
 52 | ~~surcharge of 50 cents.~~

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

55 ~~(4) When cigarettes as described in paragraph (1) (b) are~~
56 ~~packed in varying quantities of 20 cigarettes or fewer, except~~
57 ~~the manufacturer's free samples authorized under s. 210.04(9),~~
58 ~~the following rates shall govern:~~

59 ~~(a) Packages containing 10 cigarettes or fewer require a~~
60 ~~surcharge of \$1.~~

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

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

67 ~~(a) Packages containing 10 cigarettes or fewer require a~~
68 ~~surcharge of \$2.~~

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

71 (3)(6) This surcharge shall be paid by the dealer to the
72 division for deposit and distribution as hereinafter provided
73 upon the first sale or transaction within the state, whether
74 such sale or transfer is to the ultimate purchaser or consumer.
75 The seller or dealer shall collect the surcharge from the
76 purchaser or consumer, and the purchaser or consumer shall pay
77 the surcharge to the seller. The seller or dealer is responsible
78 for the collection of the surcharge and payment of the surcharge

79 | to the division. All surcharges are due not later than the 10th
 80 | day of the month following the calendar month in which they were
 81 | incurred, and thereafter shall bear interest at the rate of 1
 82 | percent per month. If the amount of surcharge due for a given
 83 | period is assessed without allocating it to any particular
 84 | month, the interest begins accruing on the date of the
 85 | assessment. Whenever cigarettes are shipped from outside the
 86 | state to anyone other than a distributing agent or wholesale
 87 | dealer, the person receiving the cigarettes is responsible for
 88 | the surcharge on the cigarettes and payment of the surcharge to
 89 | the division.

90 | (4)~~(7)~~ It is the legislative intent that the surcharge on
 91 | cigarettes be uniform throughout the state.

92 | (5)~~(8)~~ The surcharge levied under this section shall be
 93 | administered, collected, and enforced in the same manner as the
 94 | tax imposed under s. 210.02.

95 | (6)~~(9)~~ Revenue produced from the surcharge levied under
 96 | this section shall be deposited into the Health Care Trust Fund
 97 | within the Agency for Health Care Administration.

98 | Section 2. Section 210.02, Florida Statutes, is amended to
 99 | read:

100 | 210.02 Cigarette tax imposed; collection.-

101 | (1) An excise or privilege tax of 33.9 cents, in addition
 102 | to all other taxes of every kind imposed by law, is imposed upon
 103 | the sale, receipt, purchase, possession, consumption, handling,
 104 | distribution, and use of cigarettes in this state,~~in the~~

105 ~~following amounts, except as hereinafter otherwise provided, for~~
 106 a standard package of cigarettes. ~~For purposes of this section,~~
 107 the term "standard package of cigarettes" means a package of 20
 108 cigarettes, pursuant to 21 C.F.R. s. 1140.16(b) of standard
 109 dimensions:

110 ~~(a) Upon all cigarettes weighing not more than 3 pounds~~
 111 ~~per thousand, 16.95 mills on each cigarette.~~

112 ~~(b) Upon all cigarettes weighing more than 3 pounds per~~
 113 ~~thousand and not more than 6 inches long, 33.9 mills on each~~
 114 ~~cigarette.~~

115 ~~(c) Upon all cigarettes weighing more than 3 pounds per~~
 116 ~~thousand and more than 6 inches long, 67.8 mills on each~~
 117 ~~cigarette.~~

118 (2) An additional tax of 1.41 cents is imposed upon each
 119 ~~The description of cigarettes contained in paragraphs (a), (b),~~
 120 ~~and (c) of subsection (1) are hereby declared to be standard as~~
 121 ~~to dimensions for taxing purposes as provided in this law and~~
 122 ~~Should any cigarette that is be received, purchased, possessed,~~
 123 ~~sold, offered for sale, given away, or used in of a package size~~
 124 ~~other than a of standard package of cigarettes dimensions, the~~
 125 ~~same shall be taxed at the rate of 1.41 cents on each such~~
 126 ~~cigarette.~~

127 ~~(3) When cigarettes as described in paragraph (1) (a) are~~
 128 ~~packed in varying quantities of 20 cigarettes or less, except~~
 129 ~~manufacturer's free samples authorized under s. 210.04(9), the~~
 130 ~~following rate shall govern:~~

131 ~~(a) Packages containing 10 cigarettes or less require a~~
132 ~~16.95-cent tax.~~

133 ~~(b) packages containing more than 10 but not more than 20~~
134 ~~cigarettes require a 33.9-cent tax.~~

135 ~~(4) When cigarettes as described in paragraph (1) (b) are~~
136 ~~packed in varying quantities of 20 cigarettes or less, except~~
137 ~~manufacturer's free samples authorized under s. 210.04(9), the~~
138 ~~following rates shall govern:~~

139 ~~(a) Packages containing 10 cigarettes or less require a~~
140 ~~33.9-cent tax.~~

141 ~~(b) Packages containing more than 10 but not more than 20~~
142 ~~cigarettes require a 67.8-cent tax.~~

143 ~~(5) When cigarettes as described in paragraph (1) (c) are~~
144 ~~packed in varying quantities of 20 cigarettes or less, except~~
145 ~~manufacturer's free samples authorized under s. 210.04(9), the~~
146 ~~following rates shall govern:~~

147 ~~(a) Packages containing 10 cigarettes or less require a~~
148 ~~67.8-cent tax.~~

149 ~~(b) Packages containing more than 10 but not more than 20~~
150 ~~cigarettes require a 135.6-cent tax.~~

151 (3)~~(6)~~ This tax shall be paid by the dealer to the
152 division for deposit and distribution as hereinafter provided
153 upon the first sale or transaction within the state, whether ~~or~~
154 ~~not~~ such sale or transfer is ~~be~~ to the ultimate purchaser or
155 consumer. The seller or dealer shall collect the tax from the
156 purchaser or consumer, and the purchaser or consumer shall pay

157 the tax to the seller. The seller or dealer is ~~shall be~~
 158 responsible for the collection of the tax and ~~the~~ payment of the
 159 tax ~~same~~ to the division. All taxes are due not later than the
 160 10th day of the month following the calendar month in which they
 161 were incurred, and thereafter shall bear interest at the rate of
 162 1 percent per month. If the amount of tax due for a given period
 163 is assessed without allocating it to any particular month, the
 164 interest begins accruing on ~~shall begin with~~ the date of the
 165 assessment. Whenever cigarettes are shipped from outside the
 166 state to anyone other than a distributing agent or wholesale
 167 dealer, the person receiving the cigarettes is ~~shall be~~
 168 responsible for the tax on the ~~said~~ cigarettes and ~~the~~ payment
 169 of the tax ~~same~~ to the division.

170 (4)(7) It is the legislative intent that the tax on
 171 cigarettes ~~shall~~ be uniform throughout the state.

172 Section 3. Subsection (9) of section 210.04, Florida
 173 Statutes, is amended to read:

174 210.04 Construction; exemptions; collection.—

175 (9) Agents~~,~~ located within or without the state~~,~~ shall
 176 purchase stamps and affix such stamps in the manner prescribed
 177 to packages or containers of cigarettes to be sold, distributed,
 178 or given away within the state, in which case any dealer
 179 subsequently receiving such stamped packages of cigarettes will
 180 not be required to purchase and affix stamps on such packages of
 181 cigarettes. ~~However, the division may, in its discretion,~~
 182 ~~authorize manufacturers to distribute in the state free sample~~

183 ~~packages of cigarettes containing not less than 2 or more than~~
184 ~~20 cigarettes without affixing any surcharge and tax stamps~~
185 ~~provided copies of shipping invoices on such cigarettes are~~
186 ~~furnished, and payment of all surcharges and taxes imposed on~~
187 ~~such cigarettes by law is made, directly to the division not~~
188 ~~later than the 10th day of each calendar month. The surcharge~~
189 ~~and tax on cigarettes in sample packages shall be based on a~~
190 ~~unit in accordance with the surcharges levied under s.~~
191 ~~210.011(1) and the taxing provisions of s. 210.02(1).~~

192 Section 4. Subsection (5) of section 210.06, Florida
193 Statutes, is amended to read:

194 210.06 Affixation of stamps; presumption.-

195 (5) Except as provided in ~~s. 210.04(9) or~~ s. 210.09(1), no
196 person, other than a dealer or distributing agent that receives
197 unstamped cigarette packages directly from a cigarette
198 manufacturer or importer in accordance with this section and s.
199 210.085, shall hold or possess an unstamped cigarette package.
200 Dealers shall be permitted to set aside, without application of
201 stamps, only such part of the dealer's stock that is identified
202 for sale or distribution outside this state. If a dealer
203 maintains stocks of unstamped cigarette packages, such unstamped
204 packages shall be stored separately from stamped product
205 packages. No unstamped cigarette packages shall be transferred
206 by a dealer to another facility of the dealer within this state
207 or to another person within this state.

208 Section 5. Section 210.085, Florida Statutes, is amended

209 to read:

210 210.085 Transactions only with permitted manufacturers,
 211 importers, distributing agents, dealers, and retail dealers.—
 212 ~~Except as otherwise provided in s. 210.04(9),~~ A manufacturer or
 213 importer, or a distributing agent representing a manufacturer or
 214 importer, may sell or distribute cigarettes to a person located
 215 or doing business within this state only if such person is a
 216 dealer or importer with a valid, current permit under s. 210.15.
 217 A distributing agent may accept cigarettes from a manufacturer
 218 or importer with a valid, current permit for transfer to a
 219 dealer with a valid, current permit but may not own or sell
 220 cigarettes. A dealer may sell or distribute cigarettes to a
 221 person located or doing business within this state only if such
 222 person is a dealer or retail dealer with a valid, current permit
 223 under s. 569.003. A dealer may obtain cigarettes only from a
 224 manufacturer or importer or from a distributing agent or dealer
 225 with a valid, current permit under s. 210.15. A retail dealer
 226 may obtain cigarettes only from a dealer with a valid, current
 227 permit under s. 210.15.

228 Section 6. Paragraph (a) of subsection (12) of section
 229 215.5602, Florida Statutes, is amended to read:

230 215.5602 James and Esther King Biomedical Research
 231 Program.—

232 (12) (a) Beginning in the 2011-2012 fiscal year and
 233 thereafter, \$25 million from the revenue deposited into the
 234 Health Care Trust Fund pursuant to ss. 210.011(6) ~~210.011(9)~~ and

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235 210.276(7) shall be reserved for research of tobacco-related or
236 cancer-related illnesses. Of the revenue deposited in the Health
237 Care Trust Fund pursuant to this section, \$25 million shall be
238 transferred to the Biomedical Research Trust Fund within the
239 Department of Health. Subject to annual appropriations in the
240 General Appropriations Act, \$5 million shall be appropriated to
241 the James and Esther King Biomedical Research Program, and \$5
242 million shall be appropriated to the William G. "Bill" Bankhead,
243 Jr., and David Coley Cancer Research Program created under s.
244 381.922.

245 Section 7. This act shall take effect July 1, 2016.