

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

CHAMBER ACTION

Senate

House

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

WD/2R  
04/24/2004 12:34 PM

.  
. .  
. .  
. .  
. .  
. .

Senator Dockery moved the following amendment:

**Senate Amendment (with title amendment)**

On page 8, line 5, through page 9, line 2, delete those lines

and insert:

Section 2. Subsections (6) and (7) of section 210.01, Florida Statutes, are amended, and subsections (19) through (23) are added to that section, to read:

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

(6) "Wholesale dealer" means any person located inside or outside this state who sells cigarettes to retail dealers or other persons for purposes of resale only, or any person who operates more than one cigarette vending machine located in more than one place of business. Such term shall not include any cigarette manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C. s. 5712 if such person sells or distributes cigarettes in this state only to dealers who are agents and who hold valid and

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 current permits under s. 210.15 or to an export warehouse  
2 proprietor or another manufacturer.

3 (7) "Retail dealer" means any person located inside or  
4 outside this state other than a wholesale dealer engaged in  
5 the business of selling cigarettes, including persons licensed  
6 pursuant to s. 569.003.

7 (19) "Stamp" or "stamps" means the indicia required to  
8 be placed on cigarette packages that evidences payment of the  
9 tax on cigarettes under s. 210.02.

10 (20) "Importer" means any person with a valid permit  
11 under 26 U.S.C. s. 5712 who imports into the United States,  
12 directly or indirectly, a finished cigarette for sale or  
13 distribution.

14 (21) "Manufacturer" means any person with a valid  
15 permit under 26 U.S.C. s. 5712 who manufactures, fabricates,  
16 assembles, processes, or labels a finished cigarette.

17 (22) "Counterfeit cigarettes" means cigarettes that  
18 have false manufacturing labels, tobacco product packs without  
19 tax stamps or with counterfeit tax stamps, or any combination  
20 thereof.

21 (23) "Brand family" means all styles of cigarettes  
22 sold under the same trademark and differentiated from one  
23 another by means of additional modifiers or descriptors,  
24 including, but not limited to, "menthol," "lights," "kings,"  
25 and "100s," and includes any brand name used alone or in  
26 conjunction with any other word, trademark, logo, symbol,  
27 motto, selling message, recognizable pattern of colors, or any  
28 other indicia of product identification identical or similar  
29 to, or identifiable with, a previously known brand of  
30 cigarettes.

31 Section 3. Subsection (6) is added to section 210.05,

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 Florida Statutes, to read:

2           210.05 Preparation and sale of stamps; discount.--

3           (6)(a) A person may not transport or cause to be  
4 transported from this state cigarettes for sale in another  
5 state without first affixing to the cigarettes the stamp  
6 required by the state in which the cigarettes are to be sold  
7 or paying any other excise tax on the cigarettes imposed by  
8 the state in which the cigarettes are to be sold.

9           (b) A person may not affix to cigarettes the stamp  
10 required by another state or pay any other excise tax on the  
11 cigarettes imposed by another state if the other state  
12 prohibits stamps from being affixed to the cigarettes,  
13 prohibits the payment of any other excise tax on the  
14 cigarettes, or prohibits the sale of the cigarettes.

15           (c) The requirements of paragraphs (a) and (b) do not  
16 apply to cigarettes with respect to which the manufacturer or  
17 importer either is a participating manufacturer (as defined in  
18 section II(jj) of the master settlement agreement) or is in  
19 full compliance with the qualifying statute (as defined in  
20 section IX(d)(2)(E) of the master settlement agreement) of the  
21 state in which the cigarettes are to be sold. An exemption  
22 pursuant to this paragraph may only be asserted with respect  
23 to cigarettes that, in the case of a participating  
24 manufacturer, are deemed to be its cigarettes for purposes of  
25 calculating its payments under the master settlement agreement  
26 for the relevant year in the volumes and shares determined  
27 pursuant to the master settlement agreement, and, in the case  
28 of all other manufacturers and importers, are deemed to be its  
29 cigarettes for purposes of the applicable qualifying statute.  
30 For purposes of this subsection the term "master settlement  
31 agreement" means the settlement agreement (and related

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 documents) entered into in 1998 by 46 states and leading  
2 United States tobacco manufacturers. A person asserting an  
3 exemption pursuant to this paragraph shall submit the reports  
4 required by paragraph (d) and shall certify as provided in  
5 that paragraph.

6 (d) On or before the 10th day of each month, a person  
7 who transports or causes to be transported from this state  
8 cigarettes for sale in another state shall submit to the  
9 division a report identifying the quantity and brand family of  
10 each brand of the cigarettes transported or caused to be  
11 transported in the preceding calendar month and the name and  
12 address of each recipient of the cigarettes. Such person shall  
13 also certify under oath and subject to the penalties of  
14 perjury that:

15 1. The stamps required by paragraph (a) have been  
16 affixed in accordance with that paragraph or that such stamps  
17 were not affixed pursuant to paragraph (b); or

18 2. Such person satisfies the requirements of paragraph  
19 (c).

20 (e) For purposes of this section, the term "person"  
21 means an individual, partnership, committee, association,  
22 corporation, or any other organization or group of persons.  
23 Person does not include any common or contract carrier, or  
24 public warehouse that is not owned, in whole or in part,  
25 directly or indirectly, by the person transporting the  
26 cigarettes or causing the transport to be made.

27 (f) This subsection shall not be deemed to authorize  
28 the possession or transportation of cigarettes by any person  
29 not so authorized by another provision of this part.

30 Section 4. Subsection (1) of section 210.06, Florida  
31 Statutes, is amended, and subsection (5) is added to that

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 section, to read:

2           210.06 Affixation of stamps; presumption.--

3           (1) Every dealer within ~~or without~~ the state shall  
4 affix or cause to be affixed to such package or container of  
5 such cigarettes ~~such~~, stamps as are required under this  
6 section within 10 days after receipt of such products. Dealers  
7 outside this state shall affix such stamps before the shipment  
8 of cigarettes into this state, evidencing the payment of the  
9 tax imposed by virtue of this part before such cigarettes are  
10 offered for sale or use or consumed or before they are  
11 otherwise disposed of in the state.

12           (a) A tax stamp shall be applied to all cigarette  
13 packages intended for sale or distribution to consumers  
14 subject to the tax imposed under s. 210.02, except as  
15 otherwise provided in this act.

16           (b) No stamp shall be applied to any cigarette package  
17 exempt from tax under 26 U.S.C. s. 5704 that is distributed by  
18 a manufacturer pursuant to federal regulations.

19           (c) Dealers may apply stamps only to cigarette  
20 packages received directly from a manufacturer or importer of  
21 cigarettes who possesses a valid and current permit under 26  
22 U.S.C. s. 5712.

23           (5) Except as provided in s. 210.09(1), no person,  
24 other than a dealer that receives unstamped cigarette packages  
25 directly from a cigarette manufacturer or importer in  
26 accordance with this section and s. 210.085, shall hold or  
27 possess an unstamped cigarette package. Dealers shall be  
28 permitted to set aside, without application of stamps, only  
29 such part of the dealer's stock that is identified for sale or  
30 distribution outside this state. If a dealer maintains stocks  
31 of unstamped cigarette packages, such unstamped packages shall

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 be stored separately from stamped product packages. No  
2 unstamped cigarette packages shall be transferred by a dealer  
3 to another facility of the dealer within this state or to  
4 another person within this state.

5 Section 5. Section 210.085, Florida Statutes, is  
6 created to read:

7 210.085 Transactions only with permitted  
8 manufacturers, importers, distributing agents, dealers, and  
9 retail dealers.--A manufacturer, importer, or distributing  
10 agent may sell or distribute cigarettes to a person located or  
11 doing business within this state only if such person is a  
12 dealer with a valid, current permit under s. 210.15. A dealer  
13 may sell or distribute cigarettes to a person located or doing  
14 business within this state only if such person is a dealer or  
15 retail dealer with a valid, current permit under s. 569.003. A  
16 dealer may obtain cigarettes only from a manufacturer or  
17 importer who possesses a valid, current permit under 26 U.S.C.  
18 s. 5712 or from a distributing agent or dealer with a valid,  
19 current permit under s. 210.15. A retail dealer may obtain  
20 cigarettes only from a manufacturer or dealer with a valid,  
21 current permit under s. 210.15.

22 Section 6. Subsection (1) of section 210.09, Florida  
23 Statutes, is amended to read:

24 210.09 Records to be kept; reports to be made;  
25 examination.--

26 (1)(a) Every person who shall possess or transport any  
27 unstamped cigarettes upon the public highways, roads, or  
28 streets of the state, shall be required to have in his or her  
29 actual possession invoices or delivery tickets for such  
30 cigarettes. The absence of such invoices or delivery tickets  
31 shall be prima facie evidence that such person is a dealer in

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 cigarettes in this state and subject to the provisions of this  
2 part.

3 (b) Any person who ships unstamped cigarette packages  
4 into this state other than to a dealer holding a valid,  
5 current permit pursuant to s. 210.15 shall first file with the  
6 division a notice of such shipment. This paragraph shall not  
7 apply to any common or contract carrier that is transporting  
8 cigarettes through this state to another location outside this  
9 state under a proper bill of lading or freight bill that  
10 states the quantity, source, and destination of such  
11 cigarettes.

12 (c) In any case in which the division or its duly  
13 authorized agent, or any law enforcement officer of this  
14 state, has knowledge or reasonable grounds to believe that any  
15 vehicle is transporting cigarettes in violation of this part,  
16 the division, such agent, or such law enforcement officer is  
17 authorized to stop such vehicle and inspect the vehicle for  
18 contraband cigarettes.

19 Section 7. Subsection (1) of section 210.12, Florida  
20 Statutes, is amended, subsections (2) through (6) of that  
21 section are renumbered as subsections (4) through (8),  
22 respectively, and new subsections (2) and (3) are added to  
23 that section, to read:

24 210.12 Seizures; forfeiture proceedings.--

25 (1) The state, acting by and through the division,  
26 shall be authorized and empowered to seize, confiscate, and  
27 ~~forfeit for the use and benefit of the state,~~ any cigarettes  
28 upon which taxes payable hereunder may be unpaid or that are  
29 otherwise held in violation of the requirements of this  
30 chapter, and also any vending machine or receptacle in which  
31 ~~such~~ cigarettes upon which taxes have not been paid are held

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 for sale, or any vending machine that does not have affixed  
2 thereto the identification sticker required by the provisions  
3 of s. 210.07, or which does not display at all times at least  
4 one package of each brand of cigarettes located therein so the  
5 same is clearly visible and arranged in such a manner that the  
6 cigarette tax stamp or meter impression of the stamp affixed  
7 thereto is clearly visible. Such seizure may be made by the  
8 division, its duly authorized representative, any sheriff or  
9 deputy sheriff, or any police officer.

10 (2) All fixtures, equipment, and other materials and  
11 personal property on the premises of any dealer or retail  
12 dealer who, with intent to defraud the state, fails to keep or  
13 make any record, return, report, or inventory required by this  
14 part; keeps or makes any false or fraudulent record, return,  
15 report, or inventory required by this part; refuses to pay any  
16 tax imposed by this part; or attempts in any manner to evade  
17 or defeat the requirements of this part shall be forfeited to  
18 the state.

19 (3) All cigarettes seized, confiscated, and forfeited  
20 to the state under this part shall be destroyed.

21 Section 8. Subsection (1) of section 210.15, Florida  
22 Statutes, is amended to read:

23 210.15 Permits.--

24 (1)(a) Every person, firm, or corporation desiring to  
25 engage in business as a manufacturer, importer, exporter,  
26 distributing agent, or wholesale dealer of cigarettes deal in  
27 cigarettes as a distributing agent, wholesale dealer, or  
28 exporter within this state shall file with the division an  
29 application for a cigarette permit for each place of business  
30 located within this state or, in the absence of such place of  
31 business in this state, for wherever its principal place of



Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 ~~business is located with the Division of Alcoholic Beverages~~  
2 ~~and Tobacco.~~ Every application for a cigarette permit shall be  
3 made on forms furnished by the division and shall set forth  
4 the name under which the applicant transacts or intends to  
5 transact business, the location of the applicant's place of  
6 business within the state, if any, and such other information  
7 as the division may require. If the applicant has or intends  
8 to have more than one place of business dealing in cigarettes  
9 within this state, the application shall state the location of  
10 each place of business. If the applicant is an association,  
11 the application shall set forth the names and addresses of the  
12 persons constituting the association, and if a corporation,  
13 the names and addresses of the principal officers thereof and  
14 any other information prescribed by the division for the  
15 purpose of identification. The application shall be signed and  
16 verified by oath or affirmation by the owner, if a natural  
17 person, and in the case of an association or partnership,  
18 members or partners thereof, and in the case of a corporation,  
19 by an executive officer thereof or by any person specifically  
20 authorized by the corporation to sign the application, to  
21 which shall be attached the written evidence of this  
22 authority. The cigarette permit for a distributing agent shall  
23 be issued annually for which an annual fee of \$5 shall be  
24 charged.

25 (b) The holder of any duly issued, annual permit for a  
26 distributing agent shall be entitled to a renewal of his or  
27 her annual permit from year to year as a matter of course, on  
28 or before July 1, upon making application to the division and  
29 upon payment of this annual permit fee.

30 (c) Permits ~~The permit for a distributing agent,~~  
31 ~~wholesale dealer, or exporter~~ shall be issued only to persons

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 of good moral character, who are not less than 18 years of  
 2 age. ~~Distributing agent, wholesale dealer, or exporter~~ Permits  
 3 to corporations shall be issued only to corporations whose  
 4 officers are of good moral character and not less than 18  
 5 years of age. There shall be no exemptions from the permit  
 6 fees herein provided to any persons, association of persons,  
 7 or corporation, any law to the contrary notwithstanding.

8 (d) No distributing agent, wholesale dealer, or  
 9 exporter permit shall be issued, maintained, or renewed if the  
 10 applicant, its officers, or any person or persons owning  
 11 directly or indirectly, in the aggregate, more than 10 percent  
 12 of the ownership interests in the applicant:

13 1. Owes \$500 or more in delinquent cigarette taxes;  
 14 2. Had a cigarette importer, retail dealer, or dealer  
 15 permit revoked by the division within the previous 2 years;  
 16 3. Has been convicted of selling stolen or counterfeit  
 17 cigarettes, receiving stolen cigarettes, or being involved in  
 18 the counterfeiting of cigarettes; or  
 19 4. Has to any person who has been convicted within the  
 20 past 5 years of any offense against the cigarette laws of this  
 21 state or who has been convicted in this state, any other  
 22 state, or the United States during the past 5 years of any  
 23 offense designated as a felony by such state or the United  
 24 States, or to a corporation, any of whose officers have been  
 25 so convicted. The term "convicted" "conviction" shall include  
 26 an adjudication of guilt on a plea of guilty or a plea of nolo  
 27 contendere, or the forfeiture of a bond when charged with a  
 28 crime.

29 (e)(d) The division may refuse to issue a distributing  
 30 agent, wholesale, or exporter permit to any person, firm, or  
 31 corporation whose permit under the cigarette law has been

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 | revoked or to any corporation, an officer of which has had his  
2 | or her permit under the cigarette law revoked, or to any  
3 | person who is or has been an officer of a corporation whose  
4 | permit has been revoked under the cigarette law. Any permit  
5 | issued to a firm or corporation prohibited from obtaining such  
6 | permit under the cigarette law may be revoked by the division.

7 |        ~~(f)(e)~~ Prior to an application for a distributing  
8 | agent, wholesale dealer, or exporter permit being approved,  
9 | the applicant shall file a set of fingerprints on forms  
10 | provided by the division. The applicant shall also file a set  
11 | of fingerprints for any person or persons interested directly  
12 | or indirectly with the applicant in the business for which the  
13 | permit is being sought, when so required by the division. If  
14 | the applicant or any person interested with the applicant,  
15 | either directly or indirectly, in the business for which the  
16 | permit is sought shall be such a person as is within the  
17 | definition of persons to whom a ~~distributing agent, wholesale~~  
18 | ~~dealer, or exporter~~ permit shall be denied, then the  
19 | application may be denied by the division. If the applicant is  
20 | a partnership, all members of the partnership are required to  
21 | file said fingerprints, or if a corporation, all principal  
22 | officers of the corporation are required to file said  
23 | fingerprints. The cigarette permit for a wholesale dealer or  
24 | exporter shall be originally issued at a fee of \$100, which  
25 | sum is to cover the cost of the investigation required before  
26 | issuing such permit.

27 |        ~~(g)(f)~~ The cigarette permits issued under this section  
28 | ~~permit for a wholesale dealer or exporter~~ shall be renewed  
29 | from year to year ~~as a matter of course~~, at an annual cost of  
30 | \$100, on or before July 1, upon making application to the  
31 | division and upon payment of the annual renewal fee.

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1           ~~(h)(g)~~ Permittees, by acceptance of their permits,  
2 agree that their places of business or vehicles transporting  
3 cigarettes shall always be subject to be inspected and  
4 searched without a search warrant for the purpose of  
5 ascertaining that all provisions of this part are complied  
6 with by authorized employees of the division and also by  
7 sheriffs, deputy sheriffs, and police officers during business  
8 hours or during any other time such premises are occupied by  
9 the permittee or other persons. Retail cigarette dealers and  
10 manufacturers' representatives, by dealing in cigarettes,  
11 agree that their places of business or vehicles transporting  
12 cigarettes shall always be subject to inspection and search  
13 without a search warrant for the purpose of ascertaining that  
14 all provisions of this part are complied with by authorized  
15 employees of the division and also by sheriffs, deputy  
16 sheriffs, and police officers during business hours or other  
17 times when the premises are occupied by the retail dealer or  
18 manufacturers' representatives or other persons.

19           ~~(i)(h)~~ No retail sales of cigarettes may be made at a  
20 location for which a wholesale dealer, distributing agent, or  
21 exporter permit has been issued. The excise tax on sales made  
22 to any traveling location, such as an itinerant store or  
23 industrial caterer, shall be paid into the General Revenue  
24 Fund unallocated. Cigarettes may be purchased for retail  
25 purposes only from a person holding a wholesale dealer permit.  
26 The invoice for the purchase of cigarettes must show the place  
27 of business for which the purchase is made and the cigarettes  
28 cannot be transferred to any other place of business for the  
29 purpose of resale.

30           Section 9. Subsections (2), (3), and (6) of section  
31 210.18, Florida Statutes, are amended, and subsection (9) is

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 added to that section, to read:

2           210.18 Penalties for tax evasion; reports by  
3 sheriffs.--

4           (2) Except as otherwise provided in this section, any  
5 person ~~wholesale or retail dealer~~ who fails, neglects, or  
6 refuses to comply with, or violates the provisions of, this  
7 part or the rules adopted ~~and regulations promulgated~~ by the  
8 division under this part commits ~~is guilty of~~ a misdemeanor of  
9 the first degree, punishable as provided in s. 775.082 or s.  
10 775.083. Any person ~~wholesale or retail dealer~~ who has been  
11 convicted of a violation of any provision of the cigarette tax  
12 law and who is thereafter convicted of a further violation of  
13 the cigarette tax law is, upon conviction of such further  
14 offense, guilty of a felony of the third degree, punishable as  
15 provided in s. 775.082, s. 775.083, or s. 775.084.

16           (3) Any person who falsely or fraudulently makes,  
17 forges, alters, or counterfeits any stamp or impression die  
18 used in meter machines prescribed by the division under the  
19 provisions of this part; or, with intent to evade taxes, jams,  
20 tampers with, or alters such a machine; or causes or procures  
21 to be falsely or fraudulently made, forged, altered, or  
22 counterfeited any such stamp or die; or knowingly and  
23 willfully utters, purchases, passes or tenders as true any  
24 such false, altered, or counterfeited stamp or die impression;  
25 or with the intent to defraud the state, fails to comply with  
26 any other requirement of this chapter ~~commits is guilty of~~ a  
27 felony of the third degree, punishable as provided in s.  
28 775.082, s. 775.083, or s. 775.084.

29           ~~(6)(a) Every person, firm, or corporation, other than~~  
30 ~~a licensee under the provisions of this part, who possesses,~~  
31 ~~removes, deposits, or conceals, or aids in the possessing,~~

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 ~~removing, depositing, or concealing of, any unstamped~~  
2 ~~cigarettes not in excess of 50 cartons is guilty of a~~  
3 ~~misdemeanor of the second degree, punishable as provided in s.~~  
4 ~~775.082 or s. 775.083. In lieu of the penalties provided in~~  
5 ~~those sections, however, the person, firm, or corporation may~~  
6 ~~pay the tax plus a penalty equal to the amount of the tax~~  
7 ~~authorized under s. 210.02 on the unstamped cigarettes.~~

8       ~~(a)(b)~~ Every person, firm, or corporation, other than  
9 a licensee under the provisions of this part, who possesses,  
10 removes, deposits, or conceals, or aids in the possessing,  
11 removing, depositing, or concealing of, any unstamped  
12 cigarettes in excess of 50 cartons is presumed to have  
13 knowledge that they have not been taxed and commits is guilty  
14 ~~of~~ a felony of the third degree, punishable as provided in s.  
15 775.082, s. 775.083, or s. 775.084.

16       ~~(b)(c)~~ This section does not apply to a person  
17 possessing not in excess of three cartons of such cigarettes  
18 purchased by such possessor outside the state in accordance  
19 with the laws of the place where purchased and brought into  
20 this state by such possessor. The burden of proof that such  
21 cigarettes were purchased outside the state and in accordance  
22 with the laws of the place where purchased shall in all cases  
23 be upon the possessor of such cigarettes.

24       (9) Notwithstanding any other provision of law, the  
25 sale or possession for sale of counterfeit cigarettes by any  
26 person or by a manufacturer, importer, distributing agent,  
27 wholesale dealer, or retail dealer shall result in the seizure  
28 of the product and related machinery by the division or any  
29 law enforcement agency and shall be punishable as follows:

30       (a)1. A first violation with a total quantity of less  
31 than two cartons of cigarettes or the equivalent amount of

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 other cigarettes shall be punishable by a fine not to exceed  
2 \$1,000 or five times the retail value of the cigarettes  
3 involved, whichever is greater, or imprisonment not to exceed  
4 5 years, or both.

5       2. A subsequent violation with a total quantity of  
6 less than two cartons of cigarettes or the equivalent amount  
7 of other cigarettes shall be punishable by a fine not to  
8 exceed \$5,000 or five times the retail value of the cigarettes  
9 involved, whichever is greater, or imprisonment not to exceed  
10 5 years, or both, and shall also result in the revocation by  
11 the division of the permit of the manufacturer, importer,  
12 distributing agent, wholesale dealer, or retail dealer.

13       (b)1. A first violation with a total quantity of two  
14 or more cartons of cigarettes or the equivalent amount of  
15 other cigarettes shall be punishable by a fine not to exceed  
16 \$2,000 or five times the retail value of the cigarettes  
17 involved, whichever is greater, or imprisonment not to exceed  
18 5 years, or both.

19       2. A subsequent violation with a quantity of two  
20 cartons of cigarettes or more or the equivalent amount of  
21 other cigarettes shall be punishable by a fine not to exceed  
22 \$50,000 or five times the retail value of the cigarettes  
23 involved, whichever is greater, or imprisonment not to exceed  
24 5 years, or both, and shall also result in the revocation by  
25 the division of the permit of the manufacturer, importer,  
26 distributing agent, wholesale dealer, or retail dealer.

27  
28 For purposes of this subsection, any counterfeit cigarettes  
29 seized by the division shall be destroyed.

30       Section 10. Section 210.181, Florida Statutes, is  
31 created to read:

Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1           210.181 Civil penalties.--

2           (1) Whoever knowingly omits, neglects, or refuses to  
3 comply with any duty imposed upon him or her by this part, or  
4 to do or cause to be done any of the things required by this  
5 part, or does anything prohibited by this part shall, in  
6 addition to any other penalty provided in this part, be liable  
7 for a fine of \$1,000 or five times the retail value of the  
8 cigarettes involved, whichever is greater.

9           (2) Whoever fails to pay any tax imposed by this part  
10 at the time prescribed by law or rules shall, in addition to  
11 any other penalty provided in this part, be liable for a  
12 penalty of five times the unpaid tax due.

13

14

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

16 And the title is amended as follows:

17           On page 1, line 28 through page 2, line 6, delete those  
18 lines

19

20 and insert:

21           reporting requirements; amending s. 210.01,  
22           F.S.; revising and providing definitions;  
23           amending s. 210.05, F.S.; providing stamp  
24           requirements for cigarettes in transport;  
25           providing stamp exceptions for certain  
26           cigarettes; requiring transporters of certain  
27           cigarettes to submit certain reports; amending  
28           s. 210.06, F.S.; revising requirements for and  
29           limitations on the affixation of stamps;  
30           providing requirements with respect to receipt,  
31           possession, storage, and transport of unstamped



Bill No. SB 2112

Amendment No. \_\_\_\_ Barcode 352340

1 cigarette packages; creating s. 210.085, F.S.;

2 requiring manufacturers, importers,

3 distributing agents, dealers, and retail

4 dealers to hold a current, valid permit to

5 sell, distribute, or receive cigarettes;

6 amending s. 210.09, F.S.; providing notice and

7 filing guidelines for certain person shipping

8 unstamped cigarette packages; authorizing

9 certain law enforcement officials to inspect

10 certain shipping vehicles; amending s. 210.12,

11 F.S.; authorizing the state to claim certain

12 property and materials from certain dealers and

13 retailers who attempt to defraud the state;

14 authorizing the destruction of certain

15 cigarettes; amending s. 210.15, F.S.; providing

16 criteria for permit application; prohibiting

17 issuance, maintenance, or renewal of certain

18 permits for certain applicants; providing

19 guidelines for permit application denial;

20 amending s. 210.18, F.S.; expanding the group

21 of violators subject to criminal liability;

22 prohibiting the sale or possession for sale of

23 counterfeit cigarettes; providing penalties;

24 creating s. 210.181, F.S.; providing civil

25 penalties for failure to comply with certain

26 duties or pay certain taxes; providing an

27 effective

28

29

30

31