

By the Committees on Finance and Taxation; Judiciary; and
Senator Burt

314-1965-01

1 A bill to be entitled
2 An act relating to tobacco-settlement
3 agreements; amending s. 215.5601, F.S.;
4 defining the terms "participating
5 manufacturer," "outdoor advertising," and
6 "transit advertisements"; revising legislative
7 intent; specifying procedures by which a
8 tobacco manufacturer may become a participating
9 manufacturer; providing for signatories to a
10 specified settlement agreement to be
11 participating manufacturers; providing for
12 funds received from participating manufacturers
13 to be deposited into the Tobacco Settlement
14 Clearing Trust Fund; providing for a portion of
15 unappropriated funds to be deposited into the
16 Lawton Chiles Endowment Fund; amending s.
17 210.15, F.S.; imposing a supplemental permit
18 fee on wholesale dealers; providing for
19 calculation of fee; amending s. 210.20, F.S.;
20 providing for the deposit of proceeds of the
21 supplemental permit fee; amending ss. 17.41,
22 20.435, 215.5602, F.S., relating to the Tobacco
23 Settlement Clearing Trust Fund, the Biomedical
24 Research Trust Fund, and the Florida Biomedical
25 Research Program; conforming provisions to
26 changes made by the act; providing an effective
27 date.

28
29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 215.5601, Florida Statutes, is
2 amended to read:

3 215.5601 Lawton Chiles Endowment Fund.--

4 (1) SHORT TITLE.--This section may be cited as the
5 "Lawton Chiles Endowment Fund."

6 (2) DEFINITIONS.--As used in this section:

7 (a) "Board" means the State Board of Administration
8 established by s. 16, Art. IX of the State Constitution of
9 1885 and incorporated into s. 9(c), Art. XII of the State
10 Constitution of 1968.

11 (b) "Endowment" means the Lawton Chiles Endowment
12 Fund.

13 (c) "Earnings" means all income generated by
14 investments and the net change in the market value of assets.

15 (d) "Outdoor advertising" means billboards, as well as
16 all signs and placards in arenas and stadia, whether open-air
17 or enclosed. It does not include:

18 1. Any advertisement placed on or outside the premises
19 of retail establishments licensed to sell tobacco products or
20 any retail point-of-sale; or

21 2. Any advertisement or billboard in connection with
22 the sponsorship by a tobacco product manufacturer or importer
23 of any entertainment, sporting, or similar event, such as the
24 National Association for Stock Car Auto Racing (NASCAR) which
25 appears in the State of Florida as part of a national or
26 multi-state tour.

27 (e) "Participating manufacturer" means any
28 manufacturer of tobacco products which meets the requirements
29 of subsection (4).

30 (f)(d) "State agency" or "state agencies" means the
31 Department of Health, the Department of Children and Family

1 Services, the Department of Elderly Affairs, or the Agency for
2 Health Care Administration, or any combination thereof, as the
3 context indicates.

4 (g) "Transit advertisements" means advertising on
5 private or public vehicles and all advertisements placed at,
6 on, or within any bus stop, taxi stand, waiting area, train
7 station, airport, or similar location. The term does not
8 include advertisements on vehicles owned by cigarette
9 manufacturers that are used for transporting products to
10 wholesale or retail customers.

11 (3) LEGISLATIVE INTENT.--It is the intent of the
12 Legislature to:

13 (a) Provide a perpetual source of funding for the
14 future of state children's health programs, child welfare
15 programs, children's community-based health and human services
16 initiatives, elder programs, and biomedical research
17 activities.

18 (b) Ensure that enhancement revenues will be available
19 to finance these important programs and initiatives.

20 (c) Use funds received from the Tobacco Settlement
21 Clearing Trust Fund ~~moneys~~ to ensure the financial security of
22 vital health and human services programs for children and
23 elders.

24 (d) Encourage the development of community-based
25 solutions to strengthen and improve the quality of life of
26 Florida's most vulnerable citizens, its children and elders.

27 (e) Provide funds for cancer research and
28 public-health research for diseases linked to tobacco use.

29 (f) Provide tobacco manufacturers the opportunity to
30 voluntarily participate in mitigating the impact of the use of
31 tobacco on the residents of this state.

1 (4) PARTICIPATING MANUFACTURERS; QUALIFICATIONS.--
2 (a) A tobacco product manufacturer that is a signatory
3 or released party to the August 25, 1997, settlement agreement
4 in the State of Florida, et al. v. American Tobacco Company,
5 et al., and the settlement agreement entered on March 15,
6 1996, in the case of State of West Virginia, State of Florida,
7 State of Mississippi, Commonwealth of Massachusetts, and State
8 of Louisiana v. Broke Group Ltd. and Liggett Group, Inc., and
9 that is in compliance with all economic and noneconomic terms
10 and conditions contained in those agreements and all
11 amendments and supplemental agreements in those actions is a
12 "participating manufacturer" within the meaning of this
13 section.
14 (b) A tobacco product manufacturer or importer may
15 become a "participating manufacturer" within the meaning of
16 this section, by entering into an agreement with the State of
17 Florida, through, with, and administered by the Attorney
18 General, which provides for the following:
19 1. Elimination of the outdoor advertising and transit
20 advertisements at the earlier of the expiration of applicable
21 contracts or 4 months after the date the final list of outdoor
22 advertising signs is supplied to the Attorney General. The
23 manufacturer or importer shall provide a final list of the
24 location of all its outdoor advertising signs and transit
25 advertisements to the Attorney General within 45 days after
26 entering the agreement.
27 2. Agreement to support legislative initiatives to
28 enact new laws and administrative initiatives to adopt new
29 rules intended to effectuate the following:
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1 a. The prohibition of the sale of cigarettes in
2 vending machines, except in adult-only locations and
3 facilities;

4 b. The strengthening of civil penalties for sales of
5 tobacco products to children under the age of 18, including
6 the suspension or revocation of retail licenses; and

7 c. The strengthening of civil penalties for possession
8 of tobacco products by children under the age of 18.

9 3. Prohibition on making or causing to be made, in
10 connection with any motion picture made in the United States,
11 any payment, direct or indirect, to any person to use,
12 display, make reference to, or use as a prop any cigarette,
13 cigarette package, advertisement for cigarettes, or any other
14 item bearing the brand name, logo, symbol, motto, selling
15 message, recognizable color or pattern of colors, or any other
16 indicia of product identification identical or similar to, or
17 identifiable with, those used for any brand of tobacco
18 products;

19 4. Prohibition and permanent cessation on marketing,
20 licensing, distributing, selling, or offering, directly or
21 indirectly, including by catalogue or direct mail, in the
22 State of Florida, any item (other than tobacco products or any
23 item of which the sole function is to advertise tobacco
24 products) which bears the brand name (along or in conjunction
25 with any other word), logo, symbol, motto, selling message,
26 recognizable color or pattern of colors, or any other indicia
27 of product identification identical or similar to, or
28 identifiable with, those used for any brand of domestic
29 tobacco products.

30 5. Support of the state's efforts to mitigate the
31 impact of the use of tobacco products through annual payments

1 to the state of Florida, Department of Business and
2 Professional Regulation by January 31 of each year beginning
3 in 2003. The payments shall be calculated by multiplying the
4 number of packages of cigarettes delivered to wholesale
5 dealers for sale in this state by the manufacturer from
6 January 1 until December 31 of the prior year times 36 cents
7 per package. All such payments shall be deposited by the
8 Department of Business and Professional Regulation into the
9 Department of Banking and Finance Tobacco Settlement Clearing
10 Trust Fund.

11 (c) Cigarettes produced by each tobacco product
12 manufacturer or importer that fully complies with the
13 agreement entered into with the Attorney General under
14 paragraph (b) and makes the annual payment by January 31 are
15 exempt from the supplemental permit fee on cigarettes imposed
16 under s. 210.15(1)(g) for the subsequent 12-month period.

17 (d) A tobacco product manufacturer may also become a
18 participating manufacturer by:

19 1. Certifying to the Attorney General that the
20 manufacturer was not manufacturing and selling its cigarette
21 brands in this state before January 1, 1994;

22 2. Certifying to the Attorney General that the
23 manufacturer is not engaging in outdoor or transit advertising
24 of its cigarettes in this state;

25 3. Certifying to the Attorney General that the
26 manufacturer will terminate its cigarette sales in this state
27 on or before January 1, 2008;

28 4. Undertaking to sell cigarettes in this state which
29 are manufactured to deliver less toxins through the use of
30 very-low-TSNA flue-cured tobacco and activated
31 charcoal/acetate filter. To meet the requirements of this

1 subparagraph, the manufacturer shall certify to the Attorney
2 General within 90 days after the effective date of this act
3 that all of its cigarettes sold in this state have at least 20
4 percent very-low-TSNA flue-cured tobacco, as well as activated
5 charcoal/acetate filters with at least 30 milligrams of
6 charcoal, and shall certify to the Attorney General within 2
7 years after the effective date of this act that all of its
8 cigarettes sold in this state have 100 percent very-low-TSNA
9 flue-cured tobacco, as well as activated charcoal/acetate
10 filters with at least 30 milligrams of charcoal. For purposes
11 of this subparagraph, "very-low-TSNA flue-cured tobacco" means
12 tobacco having less than 400 parts per billion of the
13 carcinogenic tobacco specific nitrosamines, NNN and NNK; and

14 5. Filing a copy of its annual SEC Form 10K with the
15 Attorney General.

16
17 Cigarettes produced by such manufacturer under this paragraph
18 are exempt from the supplemental permit fee imposed under s.
19 210.15(1)(g). Failure of the tobacco product manufacturer to
20 comply with this paragraph shall result in the manufacturer
21 becoming immediately liable for payment of the supplemental
22 permit fee imposed under s. 210.15(1)(g) for all 12-month
23 periods from inception of the fee plus interest and a penalty
24 equal to the amount of the fee.

25 (e) Any tobacco manufacturer that was a defendant in
26 the case of the State of Florida et al. v. American Tobacco
27 Company et al., but was dismissed from such case and is not a
28 signatory to the settlement agreement entered on August 25,
29 1997, and that certifies to the Attorney General that it will
30 comply with the noneconomic provisions of the settlement
31 agreement is a participating manufacturer. Failure of the

1 tobacco product manufacturer to comply with this paragraph
2 shall result in the manufacturer becoming immediately liable
3 for payment of the supplemental permit fee imposed under s.
4 210.15(1)(g) for all 12-month periods from inception of the
5 fee plus interest and a penalty equal to the amount of the
6 fee.

7 (f) Funds received from participating manufacturers
8 shall be deposited into the Department of Banking and Finance
9 Tobacco Settlement Clearing Trust Fund.

10 (5)(4) LAWTON CHILES ENDOWMENT FUND; CREATION;
11 PURPOSES AND USES.--

12 (a) There is created the Lawton Chiles Endowment Fund,
13 to be administered by the State Board of Administration. The
14 endowment shall serve as a clearing trust fund not subject to
15 termination pursuant to s. 19(f), Art. III of the State
16 Constitution and shall be funded by ~~settlement~~ moneys received
17 from the Tobacco Settlement Clearing Trust Fund ~~industry~~ and
18 by moneys received from the sale of the state's right, title,
19 and interest in and to the tobacco settlement agreement,
20 including the right to receive payments under such agreement.
21 The endowment fund shall be exempt from the service charges
22 imposed by s. 215.20.

23 (b) Funds from the endowment that are available for
24 legislative appropriation pursuant to subsection (7)(6) shall
25 be transferred by the board to the Tobacco Settlement Clearing
26 Trust Fund, created in s. 17.41, in the amounts provided for
27 in this paragraph.

28 1. For fiscal year 2000-2001, funds shall be
29 distributed based on legislative appropriations.

30 2. For fiscal year 2001-2002 and beyond, funds shall
31 be distributed annually as follows:

1 a. Fifty percent shall be deposited into a separate
2 account in the Department of Children and Family Services
3 Tobacco Settlement Trust Fund to be appropriated pursuant to
4 paragraph(9)(a)~~(8)(a)~~;

5 b. Thirty-three and one-half percent shall be
6 deposited into the Biomedical Research Trust Fund in the
7 Department of Health to be appropriated pursuant to paragraph
8 (9)(a)~~(8)(b)~~, if such a trust fund is created by law;
9 otherwise, the funds shall be deposited into the Department of
10 Health Tobacco Settlement Trust Fund; and

11 c. The remaining funds shall be deposited into a
12 separate account in the Department of Elderly Affairs Tobacco
13 Settlement Trust Fund to be appropriated pursuant to paragraph
14 (9)(a)~~(8)(a)~~.

15 (c) Subject to legislative appropriations, state
16 agencies shall use distributions from the endowment fund to
17 enhance services for children and elders or to support
18 biomedical research initiatives pursuant to s. 215.5602.

19 (d) No later than October 1 of each year, the
20 Secretary of Health, the Secretary of Children and Family
21 Services, and the Secretary of Health Care Administration
22 shall develop a list of the top five funding priorities for
23 children's services eligible for funding from the endowment
24 funds, and the Secretary of Health, the Secretary of Elderly
25 Affairs, and the Secretary ~~Director~~ of Health Care
26 Administration shall develop a list of the top five funding
27 priorities for elder services eligible for funding from the
28 endowment funds. No later than November 15 of each year, the
29 list for children's services must be submitted to the advisory
30 council for children's services created in paragraph(10)(a)
31 ~~(9)(a)~~, and the list for elder services must be submitted to

1 the advisory council for elder services created in paragraph
2 ~~(10)(a)(9)(b)~~. The purposes of using the advisory councils
3 are to evaluate the funding priorities of the agencies, to
4 evaluate the request against the mission and goals of the
5 agencies, to allow for public input and advocacy, and to gain
6 consensus for priority requests and recommended endowment
7 funding levels for those priority requests.

8 (e) Funds distributed from the endowment fund may not
9 be used to supplant existing revenues.

10 (f) When advised by the Revenue Estimating Conference
11 that a deficit will occur with respect to the appropriations
12 from the tobacco settlement trust funds of the state agencies
13 in any fiscal year, the Governor shall develop a plan of
14 action to eliminate the deficit. Before implementing the plan
15 of action, the Governor must comply with the provisions of s.
16 216.177(2). In developing the plan of action, the Governor
17 shall, to the extent possible, preserve legislative policy and
18 intent, and, absent any specific directions to the contrary in
19 the General Appropriations Act, any reductions in
20 appropriations from the tobacco settlement trust funds of the
21 state agencies for a fiscal year shall be prorated among the
22 purposes for which funds were appropriated from that Tobacco
23 Settlement Clearing Trust Fund for that year.

24 ~~(6)(5)~~ ADMINISTRATION OF THE ENDOWMENT.--

25 (a) The board is authorized to invest and reinvest
26 funds of the endowment in those securities listed in s.
27 215.47, in accordance with the fiduciary standards set forth
28 in s. 215.47(9) and consistent with an investment plan
29 developed by the executive director and approved by the board.
30 Costs and fees of the board for investment services shall be
31 deducted from the earnings accruing to the endowment.

1 (b) The endowment shall be managed as an annuity. The
2 investment objective shall be long-term preservation of the
3 real value of the principal and a specified regular annual
4 cash outflow for appropriation, as nonrecurring revenue. The
5 schedule of annual cash outflow shall be included within the
6 investment plan adopted pursuant to paragraph (a).

7 (c) The board shall establish a separate account for
8 the funds of the endowment. The board shall design and operate
9 an investment portfolio that maximizes the financial return to
10 the endowment, consistent with the risks inherent in each
11 investment, and that is designed to preserve an appropriate
12 diversification of the portfolio.

13 (d) No later than August 15 and February 15 of each
14 year, the board shall report on the financial status of the
15 endowment to the Governor, the Speaker of the House of
16 Representatives, the President of the Senate, the chairs of
17 the respective appropriations and appropriate substantive
18 committees of each chamber, and the Revenue Estimating
19 Conference.

20 (e) Accountability for funds from the endowment which
21 have been appropriated to a state agency shall reside with the
22 state agency. The board is not responsible for the proper
23 expenditure or accountability of funds from the endowment
24 after transfer to the Tobacco Settlement Clearing Trust Fund.

25 (f) The board may collect a fee for service from the
26 endowment no greater than that charged to the Florida
27 Retirement System.

28 (7)~~(6)~~ AVAILABILITY OF FUNDS.--

29 (a) Funds from the endowment shall not be available
30 for appropriation to a state agency until July 1, 2000.
31 Beginning July 1, 2000, the maximum annual amount of endowment

1 funds that may be appropriated shall be in accordance with the
2 following, based on earnings averaged over 3 years:

3 1. Beginning July 1, 2000, no more than a level of
4 spending representing earnings at a rate of 3 percent.

5 2. Beginning July 1, 2001, no more than a level of
6 spending representing earnings at a rate of 4 percent.

7 3. Beginning July 1, 2002, no more than a level of
8 spending representing earnings at a rate of 5 percent.

9 4. Beginning July 1, 2003, and thereafter, no more
10 than a level of spending representing earnings at a rate of 6
11 percent.

12 (b) Notwithstanding the provisions of s. 216.301 and
13 pursuant to s. 216.351, all unencumbered balances of
14 appropriations as of June 30 or undisbursed balances as of
15 December 31 shall revert to the endowment's principal.

16 (8)~~(7)~~ ENDOWMENT PRINCIPAL.--The endowment shall
17 receive moneys from the sale of the state's right, title, and
18 interest in and to the tobacco settlement agreement and from
19 amounts transferred from the Department of Banking and Finance
20 Tobacco Settlement Clearing Trust Fund. Amounts to be
21 transferred from the clearing trust fund shall be in the
22 following amounts for the following fiscal years:

23 (a) For fiscal year 1999-2000, \$1.1 billion;

24 (b) For fiscal year 2000-2001, \$200 million;

25 (c) For fiscal year 2001-2002, \$200 million; ~~and~~

26 (d) For fiscal year 2002-2003, \$200 million; ~~and-~~

27 (e) For all subsequent fiscal years, an amount equal
28 to the greater of \$40 million or 10 percent of the payments
29 deposited into the Department of Banking and Finance Tobacco
30 Settlement Clearing Trust Fund pursuant to subsection (4) and
31 s. 210.20(4).

1
2 Amounts to be transferred pursuant to paragraphs (b), (c), ~~and~~
3 (d), and (e) shall be reduced by an amount equal to the lesser
4 of the amount scheduled to be transferred in that fiscal year
5 pursuant to such paragraphs ~~\$200 million~~ or the amount the
6 endowment receives in that fiscal year pursuant to the sale of
7 the state's right, title, and interest in and to the tobacco
8 settlement agreement.

9 (9)~~(8)~~ APPROPRIATIONS OF THE ENDOWMENT

10 EARNINGS.--Beginning with fiscal year 2001-2002:

11 (a) Appropriations by the Legislature to the
12 Department of Children and Family Services or the Department
13 of Elderly Affairs from the endowment earnings distributed to
14 those departments shall be from a category called Lawton
15 Chiles Endowment Fund Programs. The departments shall
16 distribute such appropriations pursuant to any directions or
17 limitations provided for in the General Appropriations Act and
18 consistent with this section.

19 (b) Appropriations by the Legislature to the
20 Department of Health from the endowment earnings distributed
21 to the department shall be from a category called Florida
22 Biomedical Research Program. The department shall spend such
23 funds in accordance with s. 215.5602.

24 (10)~~(9)~~ LAWTON CHILES ENDOWMENT FUND ADVISORY

25 COUNCILS.--There are established the Lawton Chiles Endowment
26 Fund Advisory Councils, the purpose of which is to evaluate
27 and rank for legislative consideration recommendations
28 submitted to the councils by the agencies for evaluation under
29 paragraph (5)(d)~~(4)(d)~~.

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1 (a) There is created within the Department of Children
2 and Family Services the Lawton Chiles Endowment Fund Advisory
3 Council for Children.

4 1. The council shall consist of 13 members, including
5 the director of the United Way of Florida, Inc., or a
6 designee, the director of the Florida Federation of Community
7 Foundations or a designee, the director of the Florida Foster
8 Parents Association or a designee, and the director of the
9 Florida Pediatric Association or a designee. The Governor
10 shall appoint the remaining council members, including:

- 11 a. An academic expert in child health policy.
12 b. A representative of a children's services council.
13 c. A representative of the Guardian Ad Litem Program.
14 d. A representative of a child welfare lead agency for
15 community-based care.
16 e. A representative of a statewide child advocacy
17 organization.
18 f. A youth representing a statewide youth
19 organization.
20 g. A professional who has expertise in the area of
21 child development.

22 h. Two consumer caregivers of children.

23 2. The council shall adopt internal organizational
24 procedures, including procedures for the appointment of a
25 chair, as necessary for its efficient organization.

26 3. The department shall provide such staff,
27 information, and other assistance as is reasonably necessary
28 to assist the council in carrying out its responsibilities.

29 4. Members of the council shall serve without
30 compensation, but may receive reimbursement as provided in s.

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1 112.061 for travel and other necessary expenses incurred in
2 the performance of their official duties.

3 5. Before February 1 of each year, the council shall
4 advise the Legislature as to its ranking of the children's
5 programs submitted by the agencies for evaluation under
6 paragraph(5)(d)~~(4)(d)~~. The responsibilities of the council
7 may include, but are not limited to:

8 a. Developing criteria and guiding principles for the
9 ranking of programs to be recommended to the Legislature.

10 b. Evaluating the value of programs or services
11 submitted by the agencies as they relate to overall
12 enhancement for children.

13 c. Providing recommendations on the funding levels to
14 be allocated for the ranked programs.

15 d. Participating in periodic program evaluation to
16 determine the need for continued funding.

17 e. Soliciting appropriate input from children's
18 advocates and community stakeholders, such as voluntary
19 organizations, community-based care lead agencies, health care
20 delivery systems, business and industry, government agencies,
21 and children's service providers.

22 (b) There is created within the Department of Elderly
23 Affairs the Lawton Chiles Endowment Fund Advisory Council for
24 Elders.

25 1. The council shall consist of 13 members, including
26 the director of the United Way of Florida, Inc., or a
27 designee, the director of the Florida Federation of Community
28 Foundations or a designee, the director of the Florida branch
29 of the American Association of Retired Persons or a designee,
30 the director of the Florida Council on Aging or a designee,
31 and the State Long-Term Care Ombudsman or a designee. The

1 Governor shall appoint the remaining council members,
2 including:
3 a. An academic expert in elder health policy.
4 b. A professional who has experience with the delivery
5 of home care services.
6 c. A physician who is certified in geriatric medical
7 care.
8 d. A professional who has experience with the delivery
9 of services in adult congregate care facilities.
10 e. A professional who has experience with the delivery
11 of services in a nursing home.
12 f. Two persons who are over the age of 60 years to
13 represent elders.
14 g. One consumer caregiver for an elderly person.
15 2. The council shall adopt internal organizational
16 procedures, including the appointment of a chair, as necessary
17 for its efficient organization.
18 3. The department shall provide such staff,
19 information, and other assistance as is reasonably necessary
20 to assist the council in carrying out its responsibilities.
21 4. Members of the council shall serve without
22 compensation, but may receive reimbursement as provided in s.
23 112.061 for travel and other necessary expenses incurred in
24 the performance of their official duties.
25 5. Before February 1 of each year, the council shall
26 advise the Legislature as to its ranking of the elder programs
27 submitted by the agencies for evaluation under paragraph
28 (5)(d)~~(4)(d)~~. The responsibilities of the council may
29 include, but are not limited to:
30 a. Developing criteria and guiding principles for the
31 ranking of programs to be recommended to the Legislature.

1 b. Evaluating the value of programs or services
2 submitted by the agencies as they relate to overall
3 enhancement for elders.

4 c. Providing recommendations on the funding levels to
5 be allocated for the ranked programs.

6 d. Participating in periodic program evaluation to
7 determine the need for continued funding.

8 e. Soliciting appropriate input from elder advocates
9 and community stakeholders, such as voluntary organizations,
10 community-based care lead agencies, health care delivery
11 systems, business and industry, government agencies, and
12 elder-service providers.

13 Section 2. Subsection (1) of section 210.15, Florida
14 Statutes, is amended to read:

15 210.15 Permits.--

16 (1)(a) Every person, firm, or corporation desiring to
17 deal in cigarettes as a distributing agent, wholesale dealer,
18 or exporter within this state shall file an application for a
19 cigarette permit for each place of business with the Division
20 of Alcoholic Beverages and Tobacco. Every application for a
21 cigarette permit shall be made on forms furnished by the
22 division and shall set forth the name under which the
23 applicant transacts or intends to transact business, the
24 location of the applicant's place of business within the
25 state, and such other information as the division may require.
26 If the applicant has or intends to have more than one place of
27 business dealing in cigarettes within this state, the
28 application shall state the location of each place of
29 business. If the applicant is an association, the application
30 shall set forth the names and addresses of the persons
31 constituting the association, and if a corporation, the names

1 and addresses of the principal officers thereof and any other
2 information prescribed by the division for the purpose of
3 identification. The application shall be signed and verified
4 by oath or affirmation by the owner, if a natural person, and
5 in the case of an association or partnership, members or
6 partners thereof, and in the case of a corporation, by an
7 executive officer thereof or by any person specifically
8 authorized by the corporation to sign the application, to
9 which shall be attached the written evidence of this
10 authority. The cigarette permit for a distributing agent shall
11 be issued annually for which an annual fee of \$5 shall be
12 charged.

13 (b) The holder of any duly issued, annual permit for a
14 distributing agent shall be entitled to a renewal of his or
15 her annual permit from year to year as a matter of course, on
16 or before July 1, upon making application to the division and
17 upon payment of this annual permit fee and all applicable
18 supplemental permit fees required by this section.

19 (c) The permit for a distributing agent, wholesale
20 dealer, or exporter shall be issued only to persons of good
21 moral character, who are not less than 18 years of age.
22 Distributing agent, wholesale dealer, or exporter permits to
23 corporations shall be issued only to corporations whose
24 officers are of goodmoral character and not less than 18
25 years of age. There shall be no exemptions from the permit
26 fees ~~herein~~ provided, except as expressly stated in this
27 subsection,to any persons, association of persons or
28 corporation, any law to the contrary notwithstanding. No
29 distributing agent, wholesale dealer, or exporter permit shall
30 be issued to any person who has been convicted within the past
31 5 years of any offense against the cigarette laws of this

1 state or who has been convicted in this state, any other
2 state, or the United States during the past 5 years of any
3 offense designated as a felony by such state or the United
4 States, or to a corporation, any of whose officers have been
5 so convicted. The term "conviction" shall include an
6 adjudication of guilt on a plea of guilty or a plea of nolo
7 contendere, or the forfeiture of a bond when charged with a
8 crime.

9 (d) The division may refuse to issue a distributing
10 agent, wholesale, or exporter permit to any person, firm, or
11 corporation whose permit under the cigarette law has been
12 revoked or to any corporation, an officer of which has had his
13 or her permit under the cigarette law revoked, or to any
14 person who is or has been an officer of a corporation whose
15 permit has been revoked under the cigarette law. Any permit
16 issued to a firm or corporation prohibited from obtaining such
17 permit under the cigarette law may be revoked by the division.

18 (e) Prior to an application for a distributing agent,
19 wholesale dealer, or exporter permit being approved, the
20 applicant shall file a set of fingerprints on forms provided
21 by the division. The applicant shall also file a set of
22 fingerprints for any person or persons interested directly or
23 indirectly with the applicant in the business for which the
24 permit is being sought, when so required by the division. If
25 the applicant or any person interested with the applicant,
26 either directly or indirectly, in the business for which the
27 permit is sought shall be such a person as is within the
28 definition of persons to whom a distributing agent, wholesale
29 dealer, or exporter permit shall be denied, then the
30 application may be denied by the division. If the applicant
31 is a partnership, all members of the partnership are required

1 to file said fingerprints, or if a corporation, all principal
2 officers of the corporation are required to file said
3 fingerprints. The cigarette permit for a wholesale dealer or
4 exporter shall be originally issued at a fee of \$100, which
5 sum is to cover the cost of the investigation required before
6 issuing such permit.

7 (f) The cigarette permit for a wholesale dealer or
8 exporter shall be renewed from year to year as a matter of
9 course, at an annual cost of \$100, on or before July 1, upon
10 making application to the division and upon payment of the
11 annual renewal fee and all applicable supplemental fees
12 required in this section.

13 (g)1. In addition to the permit fee required by
14 paragraph (f), there will be a supplemental permit fee for
15 wholesale dealers, applicable to permits granted for periods
16 beginning July 1, 2002, and thereafter. The fee shall be in
17 the amount of 36 cents per package of cigarettes.

18
19 Cigarettes produced by participating manufacturers, as defined
20 in s. 215.5601(4), shall be exempt from the supplemental
21 permit fee as long as such manufacturers are in compliance
22 with the provisions of that section.

23 2. The supplemental permit fee shall be paid by the
24 seller or wholesale dealer to the division upon the first sale
25 or transaction within the state, whether or not such sale or
26 transfer is to the ultimate purchaser or consumer. The seller
27 or dealer shall collect the fee from the purchaser or
28 consumer, and the purchaser or consumer shall pay the fee to
29 the seller. The seller or dealer shall be responsible for the
30 collection of the fee and the payment of the same to the
31 division. The supplemental permit fee is due not later than

1 the 10th day of the month following the calendar month in
2 which it was incurred, and thereafter shall bear interest at
3 the rate of 1 percent per month. If the amount of fee due for
4 a given period is assessed without allocating it to any
5 particular month, the interest shall begin with the date of
6 the assessment. Whenever cigarettes are shipped from outside
7 the state to anyone other than a wholesale dealer, the person
8 receiving the cigarettes shall be responsible for the
9 supplemental permit fee and the payment of same to the
10 division.

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

29 (i)~~(h)~~ No retail sales of cigarettes may be made at a
30 location for which a wholesale dealer, distributing agent, or
31 exporter permit has been issued. The excise tax on sales made

1 to any traveling location, such as an itinerant store or
2 industrial caterer, shall be paid into the General Revenue
3 Fund unallocated. Cigarettes may be purchased for retail
4 purposes only from a person holding a wholesale dealer permit.
5 The invoice for the purchase of cigarettes must show the place
6 of business for which the purchase is made and the cigarettes
7 cannot be transferred to any other place of business for the
8 purpose of resale.

9 Section 3. Section 210.20, Florida Statutes, is
10 amended to read:

11 210.20 Employees and assistants; distribution of
12 funds.--

13 (1) The division under the applicable rules of the
14 Department of Management Services shall have the power to
15 employ such employees and assistants and incur such other
16 expenses as may be necessary for the administration of this
17 part, within the limits of an appropriation for the operation
18 of the Department of Business and Professional Regulation as
19 may be authorized by the General Appropriations Act.

20 (2) As collections are received by the division from
21 such cigarette taxes, it shall pay the same into a trust fund
22 in the State Treasury designated "Cigarette Tax Collection
23 Trust Fund" which shall be paid and distributed as follows:

24 (a) The division shall from month to month certify to
25 the Comptroller the amount derived from the cigarette tax
26 imposed by s. 210.02(1)-(5), less ~~s. 210.02~~ the service
27 charges provided for in s. 215.20 and less 0.9 percent of the
28 amount derived from the cigarette tax imposed by s. 210.02,
29 which shall be deposited into the Alcoholic Beverage and
30 Tobacco Trust Fund, specifying the amounts to be transferred
31 from the Cigarette Tax Collection Trust Fund and credited on

1 the basis of 2.9 percent of the net collections to the Revenue
2 Sharing Trust Fund for Counties and 29.3 percent of the net
3 collections for the funding of indigent health care to the
4 Public Medical Assistance Trust Fund.

5 (b) The division shall from month to month certify to
6 the Comptroller the amount derived from the cigarette tax
7 imposed by s. 210.02 on all cigarettes sold at retail on any
8 property of the Inter-American Center Authority, created by
9 chapter 554, and such amount, less the service charge provided
10 for in s. 215.20, shall be paid to said Inter-American Center
11 Authority by warrant drawn by the Comptroller upon the State
12 Treasury, which amount is hereby appropriated monthly out of
13 such Cigarette Tax Collection Trust Fund.

14 (c) Beginning January 1, 1999, and continuing for 10
15 years thereafter, the division shall from month to month
16 certify to the Comptroller the amount derived from the
17 cigarette tax imposed by s. 210.02, less the service charges
18 provided for in s. 215.20 and less 0.9 percent of the amount
19 derived from the cigarette tax imposed by s. 210.02 which
20 shall be deposited into the Alcoholic Beverage and Tobacco
21 Trust Fund, specifying an amount equal to 2.59 percent of the
22 net collections, and that amount shall be paid to the Board of
23 Directors of the H. Lee Moffitt Cancer Center and Research
24 Institute, established under s. 240.512, by warrant drawn by
25 the Comptroller upon the State Treasury. These funds are
26 hereby appropriated monthly out of the Cigarette Tax
27 Collection Trust Fund, to be used for the purpose of
28 constructing, furnishing, and equipping a cancer research
29 facility at the University of South Florida adjacent to the H.
30 Lee Moffitt Cancer Center and Research Institute. In fiscal
31 years 1999-2000 and thereafter with the exception of fiscal

1 year 2008-2009, the appropriation to the H. Lee ~~Moffitt~~ Moffitt
2 Cancer Center and Research Institute authorized by this
3 paragraph shall not be less than the amount which would have
4 been paid to the H. Lee Moffitt Cancer Center and Research
5 Institute for fiscal year 1998-1999 had payments been made for
6 the entire fiscal year rather than for a 6-month period
7 thereof.

8 (3) After all distributions hereinabove provided for
9 have been made, the balance of the revenue produced from the
10 tax imposed by this part shall be deposited in the General
11 Revenue Fund.

12 (4) The division shall from month to month certify to
13 the Comptroller the amount derived from the supplemental
14 permit fee imposed by s. 210.15(1)(g), and that amount shall
15 be transferred from the Alcoholic Beverage and Tobacco Trust
16 Fund and credited in the Department of Banking and Finance
17 Tobacco Settlement Clearing Trust Fund.

18 Section 4. Subsection (4) of section 17.41, Florida
19 Statutes, is amended to read:

20 17.41 Department of Banking and Finance Tobacco
21 Settlement Clearing Trust Fund.--

22 (4) Net proceeds of the sale of the tobacco settlement
23 agreement received by the state shall be immediately deposited
24 into the Lawton Chiles Endowment Fund, created in s. 215.5601
25 ~~s. 215.5601(4)~~, without deposit to the Tobacco Settlement
26 Clearing Trust Fund.

27 Section 5. Paragraph (h) of subsection (1) of section
28 20.435, Florida Statutes, is amended to read:

29 20.435 Department of Health; trust funds.--

30 (1) The following trust funds are hereby created, to
31 be administered by the Department of Health:

1 (h) Biomedical Research Trust Fund.

2 1. Funds to be credited to the trust fund shall
3 consist of funds deposited pursuant to s. 215.5601(5)~~s.~~
4 ~~215.5601(4)~~. Funds shall be used for the purposes of the
5 Florida Biomedical Research Program as specified in s.
6 215.5602. The trust fund is exempt from the service charges
7 imposed by s. 215.20.

8 2. Notwithstanding the provisions of s. 216.301 and
9 pursuant to s. 216.351, any balance in the trust fund at the
10 end of any fiscal year shall remain in the trust fund at the
11 end of the year and shall be available for carrying out the
12 purposes of the trust fund.

13 3. The trust fund shall, unless terminated sooner, be
14 terminated on July 1, 2004.

15 Section 6. Subsection (1) of section 215.5602, Florida
16 Statutes, is amended to read:

17 215.5602 Florida Biomedical Research Program.--

18 (1) There is established within the Department of
19 Health the Florida Biomedical Research Program funded by the
20 proceeds of the Lawton Chiles Endowment Fund pursuant to s.
21 215.5601 ~~s. 215.5601(4)~~. The purpose of the Florida Biomedical
22 Research Program is to support research initiatives that
23 address the health care problems of Floridians in the areas of
24 cancer, cardiovascular disease, stroke, and pulmonary disease.
25 The long-term goals of the program are to:

26 (a) Improve the health of Floridians by researching
27 better prevention, diagnoses, and treatments for cancer,
28 cardiovascular disease, stroke, and pulmonary disease.

29 (b) Expand the foundation of biomedical knowledge
30 relating to the prevention, diagnosis, and treatment of
31

1 diseases related to tobacco use, including cancer,
2 cardiovascular disease, stroke, and pulmonary disease.

3 (c) Improve the quality of the state's academic health
4 centers by bringing the advances of biomedical research into
5 the training of physicians and other health care providers.

6 (d) Increase the state's per capita funding for
7 biomedical research by undertaking new initiatives in
8 biomedical research that will attract additional funding from
9 outside the state.

10 (e) Stimulate economic activity in the state in areas
11 related to biomedical research, such as the research and
12 production of pharmaceuticals, biotechnology, and medical
13 devices.

14 Section 7. This act shall take effect upon becoming a
15 law.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 CS/SB 2214

20 Clarifies that transit advertisements do not include
21 advertisements on a manufacturer's vehicle used to deliver
products.

22 Replaces the rate for voluntary settlement payments with a
23 flat rate of 36 cents per package of cigarettes delivered to
wholesalers in this state.

24 Sets the supplemental permit fee at a flat rate of 36 cents
25 per package of cigarettes sold in this state.

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