

1 A bill to be entitled
2 An act relating to transportation and sale of cigarettes;
3 amending s. 210.01, F.S.; revising and providing
4 definitions; amending s. 210.06, F.S.; revising
5 requirements for and limitations on the affixation of
6 stamps; providing requirements with respect to receipt,
7 possession, storage, and transport of unstamped cigarette
8 packages; creating s. 210.085, F.S.; requiring
9 manufacturers, importers, distributing agents, dealers,
10 and retail dealers to hold a current, valid permit to
11 sell, distribute, or receive cigarettes; amending s.
12 210.09, F.S.; providing notice and filing guidelines for
13 certain persons shipping unstamped cigarette packages;
14 authorizing certain law enforcement officials to inspect
15 certain shipping vehicles; providing for application to
16 and records requirements of manufacturers and importers;
17 amending s. 210.12, F.S.; authorizing the state to claim
18 certain property and materials from certain dealers and
19 retailers who attempt to defraud the state; authorizing
20 the destruction of certain cigarettes; amending s. 210.15,
21 F.S.; providing criteria for permit application;
22 prohibiting issuance, maintenance, or renewal of certain
23 permits for certain applicants; providing guidelines for
24 permit application denial; amending s. 210.16, F.S.;
25 revising the authority of the Division of Alcoholic
26 Beverages and Tobacco to revoke or suspend the permits of
27 certain persons under certain circumstances; revising a
28 penalty period for revoked permits; increasing a civil

29 penalty; amending s. 210.18, F.S.; expanding the group of
 30 violators subject to criminal liability; prohibiting the
 31 sale or possession for sale of counterfeit cigarettes;
 32 providing penalties; creating s. 210.181, F.S.; providing
 33 civil penalties for failure to comply with certain duties
 34 or pay certain taxes; reenacting ss. 772.102(1)(a) and
 35 895.02(1)(a), F.S., relating to crimes constituting a
 36 "criminal activity" and definitions as used in the Florida
 37 RICO Act, to incorporate the amendment to s. 210.18, F.S.,
 38 in references thereto; providing an effective date.

39

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

41

42 Section 1. Subsections (6) and (7) of section 210.01,
 43 Florida Statutes, are amended, and subsections (19) through (22)
 44 are added to said section, to read:

45 210.01 Definitions.--When used in this part the following
 46 words shall have the meaning herein indicated:

47 (6) "Wholesale dealer" means any person located inside or
 48 outside this state who sells cigarettes to retail dealers or
 49 other persons for purposes of resale only, ~~or any person who~~
 50 ~~operates more than one cigarette vending machine located in more~~
 51 ~~than one place of business.~~ Such term shall not include any
 52 cigarette manufacturer, export warehouse proprietor, or importer
 53 with a valid permit under 26 U.S.C. s. 5712 if such person sells
 54 or distributes cigarettes in this state only to dealers who are
 55 agents and who hold valid and current permits under s. 210.15 or
 56 to any cigarette manufacturer, export warehouse proprietor, or

57 importer who holds a valid and current permit under 26 U.S.C. s.
 58 5712.

59 (7) "Retail dealer" means any person located inside or
 60 outside this state other than a wholesale dealer engaged in the
 61 business of selling cigarettes, including persons issued a
 62 permit pursuant to s. 569.003.

63 (19) "Stamp" or "stamps" means the indicia required to be
 64 placed on cigarette packages that evidence payment of the tax on
 65 cigarettes under s. 210.02.

66 (20) "Importer" means any person with a valid permit under
 67 26 U.S.C. s. 5712 who imports into the United States, directly
 68 or indirectly, a finished cigarette for sale or distribution.

69 (21) "Manufacturer" means any domestic or foreign person
 70 or entity that manufactures, fabricates, assembles, processes,
 71 or labels a finished cigarette.

72 (22) "Counterfeit cigarettes" means cigarettes that have
 73 false manufacturing labels, tobacco product packs with
 74 counterfeit tax stamps, or any combination thereof.

75 Section 2. Subsection (1) of section 210.06, Florida
 76 Statutes, is amended, and subsection (5) is added to said
 77 section, to read:

78 210.06 Affixation of stamps; presumption.--

79 (1) Every dealer within ~~or without~~ the state shall affix
 80 or cause to be affixed to such package or container of such
 81 cigarettes such, stamps as are required under this section
 82 within 10 days after receipt of such products. Dealers outside
 83 this state shall affix such stamps before the shipment of
 84 cigarettes into this state, ~~evidencing the payment of the tax~~

85 ~~imposed by virtue of this part before such cigarettes are~~
86 ~~offered for sale or use or consumed or before they are otherwise~~
87 ~~disposed of in the state.~~

88 (a) A tax stamp shall be applied to all cigarette packages
89 intended for sale or distribution to consumers subject to the
90 tax imposed under s. 210.02, except as otherwise provided in
91 this part.

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

95 (c) Dealers may apply stamps only to cigarette packages
96 received directly from a manufacturer or importer of cigarettes
97 who possesses a valid and current permit under 26 U.S.C. s.
98 5712.

99 (5) Except as provided in s. 210.09(1), no person, other
100 than a dealer that receives unstamped cigarette packages
101 directly from a cigarette manufacturer or importer in accordance
102 with this section and s. 210.085, shall hold or possess an
103 unstamped cigarette package. Dealers shall be permitted to set
104 aside, without application of stamps, only such part of the
105 dealer's stock that is identified for sale or distribution
106 outside this state. If a dealer maintains stocks of unstamped
107 cigarette packages, such unstamped packages shall be stored
108 separately from stamped product packages. No unstamped cigarette
109 packages shall be transferred by a dealer to another facility of
110 the dealer within this state or to another person within this
111 state.

112 Section 3. Section 210.085, Florida Statutes, is created
 113 to read:

114 210.085 Transactions only with permitted manufacturers,
 115 importers, distributing agents, dealers, and retail dealers.--A
 116 manufacturer or importer, or a distributing agent representing a
 117 manufacturer or importer, may sell or distribute cigarettes to a
 118 person located or doing business within this state only if such
 119 person is a dealer or importer with a valid, current permit
 120 under s. 210.15. An importer may obtain cigarettes only from a
 121 licensed manufacturer. A dealer may sell or distribute
 122 cigarettes to a person located or doing business within this
 123 state only if such person is a dealer or retail dealer with a
 124 valid, current permit under s. 569.003. A dealer may obtain
 125 cigarettes only from a manufacturer or importer who possesses a
 126 valid, current permit under 26 U.S.C. s. 5712 or from a
 127 distributing agent or dealer with a valid, current permit under
 128 s. 210.15. A retail dealer may obtain cigarettes only from a
 129 dealer with a valid, current permit under s. 210.15.

130 Section 4. Subsections (1) and (3) and paragraph (a) of
 131 subsection (4) of section 210.09, Florida Statutes, are amended
 132 to read:

133 210.09 Records to be kept; reports to be made;
 134 examination.--

135 (1)(a) Every person who shall possess or transport any
 136 unstamped cigarettes upon the public highways, roads, or streets
 137 of the state, shall be required to have in his or her actual
 138 possession invoices or delivery tickets for such cigarettes. The
 139 absence of such invoices or delivery tickets shall be prima

140 facie evidence that such person is a dealer in cigarettes in
 141 this state and subject to the provisions of this part.

142 (b) Any person who ships unstamped cigarette packages into
 143 this state other than to a manufacturer, importer, or dealer
 144 holding a valid, current permit pursuant to s. 210.15 shall
 145 first file with the division a notice of such shipment. This
 146 paragraph shall not apply to any common or contract carrier that
 147 is transporting cigarettes through this state to another
 148 location outside this state under a proper bill of lading or
 149 freight bill that states the quantity, source, and destination
 150 of such cigarettes.

151 (c) In any case in which the division or its duly
 152 authorized agent, or any law enforcement officer of this state,
 153 has knowledge or reasonable grounds to believe that any vehicle
 154 is transporting cigarettes in violation of this part, the
 155 division, such agent, or such law enforcement officer is
 156 authorized to stop such vehicle and inspect the vehicle for
 157 contraband cigarettes.

158 (3) All manufacturers, importers, distributing agents,
 159 wholesale dealers, agents, or retail dealers shall maintain and
 160 keep for a period of 3 years at the place of business where any
 161 transaction takes place, such records of cigarettes received,
 162 sold, or delivered within the state as may be required by the
 163 division. The division or its duly authorized representative is
 164 hereby authorized to examine the books, papers, invoices, and
 165 other records, the stock of cigarettes in and upon any premises
 166 where the same are placed, stored, and sold, and the equipment
 167 of any such manufacturers, importers, distributing agents,

168 wholesale dealers, agents, or retail dealers, pertaining to the
 169 sale and delivery of cigarettes taxable under this part. To
 170 verify the accuracy of the tax imposed and assessed by this
 171 part, each person is hereby directed and required to give to the
 172 division or its duly authorized representatives the means,
 173 facilities, and opportunity for such examinations as are herein
 174 provided for and required.

175 (4)(a) All persons who are either cigarette manufacturers,
 176 importers, wholesalers, ~~vending machine~~ operators, or
 177 distributing agents, and agents and employees of the same, are
 178 required to keep daily sales tickets or invoices of cigarette
 179 sales and it shall be the duty of said persons to see that each
 180 sales ticket and invoice handled by them or on behalf of them
 181 show the correct name and address to whom sold and the number of
 182 packages or cartons of each brand sold. It shall also be the
 183 duty of said persons to see that each sales ticket or invoice
 184 correctly shows whether the same is inside or outside of a
 185 qualified municipality and if the sale is made within the limits
 186 of a qualified municipality, the correct name of the
 187 municipality must be indicated.

188 Section 5. Subsection (1) of section 210.12, Florida
 189 Statutes, is amended, subsections (2) through (6) of said
 190 section are renumbered as subsections (4) through (8),
 191 respectively, and new subsections (2) and (3) are added to said
 192 section, to read:

193 210.12 Seizures; forfeiture proceedings.--

194 (1) The state, acting by and through the division, shall
 195 be authorized and empowered to seize, confiscate, and forfeit

196 ~~for the use and benefit of the state,~~ any cigarettes upon which
 197 taxes payable hereunder may be unpaid or that are otherwise held
 198 in violation of the requirements of this chapter, and also any
 199 vending machine or receptacle in which ~~such~~ cigarettes upon
 200 which taxes have not been paid are held for sale, or any vending
 201 machine that does not have affixed thereto the identification
 202 sticker required by the provisions of s. 210.07, or which does
 203 not display at all times at least one package of each brand of
 204 cigarettes located therein so the same is clearly visible and
 205 arranged in such a manner that the cigarette tax stamp or meter
 206 impression of the stamp affixed thereto is clearly visible. Such
 207 seizure may be made by the division, its duly authorized
 208 representative, any sheriff or deputy sheriff, or any police
 209 officer.

210 (2) All fixtures, equipment, and other materials and
 211 personal property on the premises of any dealer or retail dealer
 212 who, with intent to defraud the state, fails to keep or make any
 213 record, return, report, or inventory required by this part;
 214 keeps or makes any false or fraudulent record, return, report,
 215 or inventory required by this part; refuses to pay any tax
 216 imposed by this part; or attempts in any manner to evade or
 217 defeat the requirements of this part shall be forfeited to the
 218 state.

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

221 Section 6. Subsection (1) of section 210.15, Florida
 222 Statutes, is amended to read:

223 210.15 Permits.--

224 (1)(a) Every person, firm, or corporation desiring to
 225 engage in business as a manufacturer, importer, exporter,
 226 distributing agent, or wholesale dealer of cigarettes ~~deal in~~
 227 ~~cigarettes as a distributing agent, wholesale dealer, or~~
 228 ~~exporter~~ within this state shall file with the division an
 229 application for a cigarette permit for each place of business
 230 located within this state or, in the absence of such place of
 231 business in this state, for wherever its principal place of
 232 business is located ~~with the Division of Alcoholic Beverages and~~
 233 ~~Tobacco~~. Every application for a cigarette permit shall be made
 234 on forms furnished by the division and shall set forth the name
 235 under which the applicant transacts or intends to transact
 236 business, the location of the applicant's place of business
 237 within the state, if any, and such other information as the
 238 division may require. If the applicant has or intends to have
 239 more than one place of business dealing in cigarettes within
 240 this state, the application shall state the location of each
 241 place of business. If the applicant is an association, the
 242 application shall set forth the names and addresses of the
 243 persons constituting the association, and if a corporation, the
 244 names and addresses of the principal officers thereof and any
 245 other information prescribed by the division for the purpose of
 246 identification. The application shall be signed and verified by
 247 oath or affirmation by the owner, if a natural person, and in
 248 the case of an association or partnership, members or partners
 249 thereof, and in the case of a corporation, by an executive
 250 officer thereof or by any person specifically authorized by the
 251 corporation to sign the application, to which shall be attached

252 the written evidence of this authority. The cigarette permit for
 253 a distributing agent shall be issued annually for which an
 254 annual fee of \$5 shall be charged.

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

260 (c) Permits ~~The permit for a distributing agent, wholesale~~
 261 ~~dealer, or exporter~~ shall be issued only to persons of good
 262 moral character, who are not less than 18 years of age.
 263 ~~Distributing agent, wholesale dealer, or exporter~~ Permits to
 264 corporations shall be issued only to corporations whose officers
 265 are of good moral character and not less than 18 years of age.
 266 There shall be no exemptions from the permit fees herein
 267 provided to any persons, association of persons, or corporation,
 268 any law to the contrary notwithstanding.

269 (d) ~~No distributing agent, wholesale dealer, or exporter~~
 270 permit under this part or chapter 569 shall be issued,
 271 maintained, or renewed if the applicant, its officers, or any
 272 person or persons owning directly or indirectly, in the
 273 aggregate, more than 10 percent of the ownership interests in
 274 the applicant:

- 275 1. Owes \$500 or more in delinquent cigarette taxes;
- 276 2. Had a cigarette manufacturer, importer, retail dealer,
 277 or dealer permit revoked by the division within the previous 2
 278 years;
- 279 3. Has been convicted of selling stolen or counterfeit

280 cigarettes, receiving stolen cigarettes, or being involved in
 281 the counterfeiting of cigarettes;

282 4. to any person who Has been convicted within the past 5
 283 years of any offense against the cigarette laws of this state or
 284 ~~who has been~~ convicted in this state, any other state, or the
 285 United States during the past 5 years of any offense designated
 286 as a felony by such state or the United States, or to a
 287 corporation, any of whose officers have been so convicted. The
 288 term "convicted conviction" shall include an adjudication of
 289 guilt on a plea of guilty or a plea of nolo contendere, or the
 290 forfeiture of a bond when charged with a crime;—

291 5. Has imported, or caused to be imported, into the United
 292 States any cigarette in violation of 19 U.S.C. s. 1681a; or

293 6. Has imported, or caused to be imported into the United
 294 States, or manufactured for sale or distribution in the United
 295 States, any cigarette that does not fully comply with the Federal
 296 Cigarette Labeling and Advertising Act (15 U.S.C. ss. 1331 et
 297 seq.).

298 (e)(d) The division may refuse to issue a ~~distributing~~
 299 ~~agent, wholesale, or exporter~~ permit to any person, firm, or
 300 corporation whose permit under the cigarette law has been
 301 ~~revoked, or~~ to any corporation, an officer of which has had his
 302 or her permit under the cigarette law revoked, or to any person
 303 who is or has been an officer of a corporation whose permit has
 304 been revoked under the cigarette law. Any permit issued to a
 305 firm or corporation prohibited from obtaining such permit under
 306 the cigarette law may be revoked by the division.

307 (f)~~(e)~~ Prior to an application for a distributing agent,
 308 wholesale dealer, or exporter permit being approved, the
 309 applicant shall file a set of fingerprints on forms provided by
 310 the division. The applicant shall also file a set of
 311 fingerprints for any person or persons interested directly or
 312 indirectly with the applicant in the business for which the
 313 permit is being sought, when so required by the division. If the
 314 applicant or any person interested with the applicant, either
 315 directly or indirectly, in the business for which the permit is
 316 sought shall be such a person as is within the definition of
 317 persons to whom a ~~distributing agent, wholesale dealer, or~~
 318 ~~exporter~~ permit shall be denied, then the application may be
 319 denied by the division. If the applicant is a partnership, all
 320 members of the partnership are required to file said
 321 fingerprints, or if a corporation, all principal officers of the
 322 corporation are required to file said fingerprints. The
 323 cigarette permit for a wholesale dealer or exporter shall be
 324 originally issued at a fee of \$100, which sum is to cover the
 325 cost of the investigation required before issuing such permit.

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

331 (h)~~(g)~~ Permittees, by acceptance of their permits, agree
 332 that their places of business or vehicles transporting
 333 cigarettes shall always be subject to be inspected and searched
 334 without a search warrant for the purpose of ascertaining that

335 all provisions of this part are complied with by authorized
 336 employees of the division and also by sheriffs, deputy sheriffs,
 337 and police officers during business hours or during any other
 338 time such premises are occupied by the permittee or other
 339 persons. Retail cigarette dealers and manufacturers'
 340 representatives, by dealing in cigarettes, agree that their
 341 places of business or vehicles transporting cigarettes shall
 342 always be subject to inspection and search without a search
 343 warrant for the purpose of ascertaining that all provisions of
 344 this part are complied with by authorized employees of the
 345 division and also by sheriffs, deputy sheriffs, and police
 346 officers during business hours or other times when the premises
 347 are occupied by the retail dealer or manufacturers'
 348 representatives or other persons.

349 (i)~~(h)~~ No retail sales of cigarettes may be made at a
 350 location for which a wholesale dealer, distributing agent, or
 351 exporter permit has been issued. The excise tax on sales made to
 352 any traveling location, such as an itinerant store or industrial
 353 caterer, shall be paid into the General Revenue Fund
 354 unallocated. Cigarettes may be purchased for retail purposes
 355 only from a person holding a wholesale dealer permit. The
 356 invoice for the purchase of cigarettes must show the place of
 357 business for which the purchase is made and the cigarettes
 358 cannot be transferred to any other place of business for the
 359 purpose of resale.

360 Section 7. Section 210.16, Florida Statutes, is amended to
 361 read:

362 210.16 Revocation or suspension of permit.--

363 (1) The Division of Alcoholic Beverages and Tobacco is
364 given full power and authority to revoke the permit of any
365 person ~~wholesale dealer~~ receiving a permit to engage in business
366 under this part or chapter 569 for violation of any of the
367 provisions of this part or chapter 569.

368 (2) The division shall revoke the permit or permits of any
369 person who would be ineligible to obtain a new license or renew
370 a license by reason of any of the conditions for permitting
371 provided in s. 210.15(1)(d)1.-5.

372 (3)~~(2)~~ The division may suspend for a reasonable period of
373 time or revoke, in its discretion, the permits ~~of wholesale~~
374 ~~dealers~~ issued under the provisions of this part or chapter 569
375 to any person who has violated any other provision of this part
376 or chapter 569 ~~for the same causes and under the same~~
377 ~~limitations as is authorized hereunder to revoke the permits of~~
378 ~~such wholesale dealers.~~

379 (4)~~(3)~~ No person ~~wholesale dealer~~ whose permit for any
380 place of business has been revoked shall engage in business
381 under this part or chapter 569 at such place of business after
382 such revocation until a new permit is issued. No person
383 ~~wholesale dealer~~ whose permit for any place of business has been
384 revoked shall be permitted to have said permit renewed, or to
385 obtain an additional cigarette permit for any other place of
386 business, for a period of 2 years ~~6 months~~ after the date such
387 revocation becomes final.

388 (5)~~(4)~~ In addition to ~~lieu of~~ the suspension or revocation
389 of permits, the division may impose civil penalties against
390 holders of permits for violations of this part or rules and

391 regulations relating thereto. No civil penalty so imposed shall
 392 exceed \$2,500 ~~\$1,000~~ for each offense, and all amounts collected
 393 shall be deposited with the Chief Financial Officer to the
 394 credit of the General Revenue Fund. If the holder of the permit
 395 fails to pay the civil penalty, his or her permit shall be
 396 suspended for such period of time as the division may specify.

397 Section 8. Subsections (2), (3), and (6) of section
 398 210.18, Florida Statutes, are amended, and subsection (9) is
 399 added to said section, to read:

400 210.18 Penalties for tax evasion; reports by sheriffs.--

401 (2) Except as otherwise provided in this section, any
 402 person ~~wholesale or retail dealer~~ who fails, neglects, or
 403 refuses to comply with, or violates the provisions of, this part
 404 or the rules adopted ~~and regulations promulgated~~ by the division
 405 under this part commits ~~is guilty of~~ a misdemeanor of the first
 406 degree, punishable as provided in s. 775.082 or s. 775.083. Any
 407 person ~~wholesale or retail dealer~~ who has been convicted of a
 408 violation of any provision of the cigarette tax law and who is
 409 thereafter convicted of a further violation of the cigarette tax
 410 law commits ~~is~~, upon conviction of such further offense, ~~guilty~~
 411 ~~of~~ a felony of the third degree, punishable as provided in s.
 412 775.082, s. 775.083, or s. 775.084.

413 (3) Any person who falsely or fraudulently makes, forges,
 414 alters, or counterfeits any stamp or impression die used in
 415 meter machines prescribed by the division under the provisions
 416 of this part; or, with intent to evade taxes, jams, tampers
 417 with, or alters such a machine; or causes or procures to be
 418 falsely or fraudulently made, forged, altered, or counterfeited

419 any such stamp or die; or knowingly and willfully utters,
420 purchases, passes or tenders as true any such false, altered, or
421 counterfeited stamp or die impression; or, with the intent to
422 defraud the state, fails to comply with any other requirement of
423 this chapter commits ~~is guilty of~~ a felony of the third degree,
424 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

425 ~~(6)(a) Every person, firm, or corporation, other than a~~
426 ~~licensee under the provisions of this part, who possesses,~~
427 ~~removes, deposits, or conceals, or aids in the possessing,~~
428 ~~removing, depositing, or concealing of, any unstamped cigarettes~~
429 ~~not in excess of 50 cartons is guilty of a misdemeanor of the~~
430 ~~second degree, punishable as provided in s. 775.082 or s.~~
431 ~~775.083. In lieu of the penalties provided in those sections,~~
432 ~~however, the person, firm, or corporation may pay the tax plus a~~
433 ~~penalty equal to the amount of the tax authorized under s.~~
434 ~~210.02 on the unstamped cigarettes.~~

435 (a)(b) Every person, firm, or corporation, other than a
436 licensee under the provisions of this part, who possesses,
437 removes, deposits, or conceals, or aids in the possessing,
438 removing, depositing, or concealing of, any unstamped cigarettes
439 in excess of 50 cartons is presumed to have knowledge that they
440 have not been taxed and commits ~~is guilty of~~ a felony of the
441 third degree, punishable as provided in s. 775.082, s. 775.083,
442 or s. 775.084.

443 (b)(e) This section does not apply to a person possessing
444 not in excess of three cartons of such cigarettes purchased by
445 such possessor outside the state in accordance with the laws of
446 the place where purchased and brought into this state by such

447 | possessor. The burden of proof that such cigarettes were
448 | purchased outside the state and in accordance with the laws of
449 | the place where purchased shall in all cases be upon the
450 | possessor of such cigarettes.

451 | (9) Notwithstanding any other provision of law, the sale
452 | or possession for sale of counterfeit cigarettes by any person
453 | or by a manufacturer, importer, distributing agent, wholesale
454 | dealer, or retail dealer shall result in the seizure of the
455 | product and related machinery by the division or any law
456 | enforcement agency and shall be punishable as follows:

457 | (a)1. A first violation with a total quantity of less than
458 | two cartons of cigarettes or the equivalent amount of other
459 | cigarettes shall be punishable by a fine not to exceed \$1,000 or
460 | five times the retail value of the cigarettes involved,
461 | whichever is greater, or imprisonment not to exceed 5 years, or
462 | both.

463 | 2. A subsequent violation with a total quantity of less
464 | than two cartons of cigarettes or the equivalent amount of other
465 | cigarettes shall be punishable by a fine not to exceed \$5,000 or
466 | five times the retail value of the cigarettes involved,
467 | whichever is greater, or imprisonment not to exceed 5 years, or
468 | both, and shall also result in the revocation by the division of
469 | the permit of the manufacturer, importer, distributing agent,
470 | wholesale dealer, or retail dealer.

471 | (b)1. A first violation with a total quantity of two or
472 | more cartons of cigarettes or the equivalent amount of other
473 | cigarettes shall be punishable by a fine not to exceed \$2,000 or
474 | five times the retail value of the cigarettes involved,

475 whichever is greater, or imprisonment not to exceed 5 years, or
 476 both.

477 2. A subsequent violation with a quantity of two cartons
 478 of cigarettes or more or the equivalent amount of other
 479 cigarettes shall be punishable by a fine not to exceed \$50,000
 480 or five times the retail value of the cigarettes involved,
 481 whichever is greater, or imprisonment not to exceed 5 years, or
 482 both, and shall also result in the revocation by the division of
 483 the permit of the manufacturer, importer, distributing agent,
 484 wholesale dealer, or retail dealer.

485
 486 For purposes of this subsection, any counterfeit cigarettes
 487 seized by the division shall be destroyed.

488 Section 9. Section 210.181, Florida Statutes, is created
 489 to read:

490 210.181 Civil penalties.--

491 (1) Whoever knowingly omits, neglects, or refuses to
 492 comply with any duty imposed upon him or her by this part, or to
 493 do or cause to be done any of the things required by this part,
 494 or does anything prohibited by this part shall, in addition to
 495 any other penalty provided in this part, be liable for a fine of
 496 \$1,000 or five times the retail value of the cigarettes
 497 involved, whichever is greater.

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

502 Section 10. For the purpose of incorporating the amendment
 503 to section 210.18, Florida Statutes, in a reference thereto,
 504 paragraph (a) of subsection (1) of section 772.102, Florida
 505 Statutes, is reenacted to read:

506 772.102 Definitions.--As used in this chapter, the term:

507 (1) "Criminal activity" means to commit, to attempt to
 508 commit, to conspire to commit, or to solicit, coerce, or
 509 intimidate another person to commit:

510 (a) Any crime which is chargeable by indictment or
 511 information under the following provisions:

512 1. Section 210.18, relating to evasion of payment of
 513 cigarette taxes.

514 2. Section 414.39, relating to public assistance fraud.

515 3. Section 440.105 or s. 440.106, relating to workers'
 516 compensation.

517 4. Part IV of chapter 501, relating to telemarketing.

518 5. Chapter 517, relating to securities transactions.

519 6. Section 550.235, s. 550.3551, or s. 550.3605, relating
 520 to dogracing and horseracing.

521 7. Chapter 550, relating to jai alai frontons.

522 8. Chapter 552, relating to the manufacture, distribution,
 523 and use of explosives.

524 9. Chapter 562, relating to beverage law enforcement.

525 10. Section 624.401, relating to transacting insurance
 526 without a certificate of authority, s. 624.437(4)(c)1., relating
 527 to operating an unauthorized multiple-employer welfare
 528 arrangement, or s. 626.902(1)(b), relating to representing or
 529 aiding an unauthorized insurer.

- 530 11. Chapter 687, relating to interest and usurious
- 531 practices.
- 532 12. Section 721.08, s. 721.09, or s. 721.13, relating to
- 533 real estate timeshare plans.
- 534 13. Chapter 782, relating to homicide.
- 535 14. Chapter 784, relating to assault and battery.
- 536 15. Chapter 787, relating to kidnapping.
- 537 16. Chapter 790, relating to weapons and firearms.
- 538 17. Section 796.03, s. 796.04, s. 796.05, or s. 796.07,
- 539 relating to prostitution.
- 540 18. Chapter 806, relating to arson.
- 541 19. Section 810.02(2)(c), relating to specified burglary
- 542 of a dwelling or structure.
- 543 20. Chapter 812, relating to theft, robbery, and related
- 544 crimes.
- 545 21. Chapter 815, relating to computer-related crimes.
- 546 22. Chapter 817, relating to fraudulent practices, false
- 547 pretenses, fraud generally, and credit card crimes.
- 548 23. Section 827.071, relating to commercial sexual
- 549 exploitation of children.
- 550 24. Chapter 831, relating to forgery and counterfeiting.
- 551 25. Chapter 832, relating to issuance of worthless checks
- 552 and drafts.
- 553 26. Section 836.05, relating to extortion.
- 554 27. Chapter 837, relating to perjury.
- 555 28. Chapter 838, relating to bribery and misuse of public
- 556 office.
- 557 29. Chapter 843, relating to obstruction of justice.

558 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
559 s. 847.07, relating to obscene literature and profanity.

560 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
561 849.25, relating to gambling.

562 32. Chapter 893, relating to drug abuse prevention and
563 control.

564 33. Section 914.22 or s. 914.23, relating to witnesses,
565 victims, or informants.

566 34. Section 918.12 or s. 918.13, relating to tampering
567 with jurors and evidence.

568 Section 11. For the purpose of incorporating the amendment
569 to section 210.18, Florida Statutes, in a reference thereto,
570 paragraph (a) of subsection (1) of section 895.02, Florida
571 Statutes, is reenacted to read:

572 895.02 Definitions.--As used in ss. 895.01-895.08, the
573 term:

574 (1) "Racketeering activity" means to commit, to attempt to
575 commit, to conspire to commit, or to solicit, coerce, or
576 intimidate another person to commit:

577 (a) Any crime which is chargeable by indictment or
578 information under the following provisions of the Florida
579 Statutes:

580 1. Section 210.18, relating to evasion of payment of
581 cigarette taxes.

582 2. Section 403.727(3)(b), relating to environmental
583 control.

584 3. Section 409.920 or s. 409.9201, relating to Medicaid
585 fraud.

- 586 4. Section 414.39, relating to public assistance fraud.
- 587 5. Section 440.105 or s. 440.106, relating to workers'
- 588 compensation.
- 589 6. Section 465.0161, relating to distribution of medicinal
- 590 drugs without a permit as an Internet pharmacy.
- 591 7. Sections 499.0051, 499.0052, 499.00535, 499.00545, and
- 592 499.0691, relating to crimes involving contraband and
- 593 adulterated drugs.
- 594 8. Part IV of chapter 501, relating to telemarketing.
- 595 9. Chapter 517, relating to sale of securities and
- 596 investor protection.
- 597 10. Section 550.235, s. 550.3551, or s. 550.3605, relating
- 598 to dogracing and horseracing.
- 599 11. Chapter 550, relating to jai alai frontons.
- 600 12. Chapter 552, relating to the manufacture,
- 601 distribution, and use of explosives.
- 602 13. Chapter 560, relating to money transmitters, if the
- 603 violation is punishable as a felony.
- 604 14. Chapter 562, relating to beverage law enforcement.
- 605 15. Section 624.401, relating to transacting insurance
- 606 without a certificate of authority, s. 624.437(4)(c)1., relating
- 607 to operating an unauthorized multiple-employer welfare
- 608 arrangement, or s. 626.902(1)(b), relating to representing or
- 609 aiding an unauthorized insurer.
- 610 16. Section 655.50, relating to reports of currency
- 611 transactions, when such violation is punishable as a felony.
- 612 17. Chapter 687, relating to interest and usurious
- 613 practices.

- 614 18. Section 721.08, s. 721.09, or s. 721.13, relating to
- 615 real estate timeshare plans.
- 616 19. Chapter 782, relating to homicide.
- 617 20. Chapter 784, relating to assault and battery.
- 618 21. Chapter 787, relating to kidnapping.
- 619 22. Chapter 790, relating to weapons and firearms.
- 620 23. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
- 621 796.05, or s. 796.07, relating to prostitution and sex
- 622 trafficking.
- 623 24. Chapter 806, relating to arson.
- 624 25. Section 810.02(2)(c), relating to specified burglary
- 625 of a dwelling or structure.
- 626 26. Chapter 812, relating to theft, robbery, and related
- 627 crimes.
- 628 27. Chapter 815, relating to computer-related crimes.
- 629 28. Chapter 817, relating to fraudulent practices, false
- 630 pretenses, fraud generally, and credit card crimes.
- 631 29. Chapter 825, relating to abuse, neglect, or
- 632 exploitation of an elderly person or disabled adult.
- 633 30. Section 827.071, relating to commercial sexual
- 634 exploitation of children.
- 635 31. Chapter 831, relating to forgery and counterfeiting.
- 636 32. Chapter 832, relating to issuance of worthless checks
- 637 and drafts.
- 638 33. Section 836.05, relating to extortion.
- 639 34. Chapter 837, relating to perjury.
- 640 35. Chapter 838, relating to bribery and misuse of public
- 641 office.

- 642 36. Chapter 843, relating to obstruction of justice.
- 643 37. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
- 644 s. 847.07, relating to obscene literature and profanity.
- 645 38. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
- 646 849.25, relating to gambling.
- 647 39. Chapter 874, relating to criminal street gangs.
- 648 40. Chapter 893, relating to drug abuse prevention and
- 649 control.
- 650 41. Chapter 896, relating to offenses related to financial
- 651 transactions.
- 652 42. Sections 914.22 and 914.23, relating to tampering with
- 653 a witness, victim, or informant, and retaliation against a
- 654 witness, victim, or informant.
- 655 43. Sections 918.12 and 918.13, relating to tampering with
- 656 jurors and evidence.
- 657 Section 12. This act shall take effect upon becoming a
- 658 law.