



**State of Florida**  
Department of Business and Professional Regulation  
Division of Alcoholic Beverages and Tobacco  
Bureau of Auditing

Instruction Booklet  
for

**TAXPAID**

**CIGARETTE WHOLESALE DEALER'S MONTHLY REPORT**

**Division of Alcoholic Beverages and Tobacco  
Internet Site**

[www.MyFlorida.com/dbpr/abt](http://www.MyFlorida.com/dbpr/abt)

# TAXPAID CIGARETTE WHOLESALE DEALER (CWD)

## INTRODUCTION

The system for distribution of cigarettes in the State of Florida encompasses three levels: the manufacturer (supplier), the distributor (wholesaler), and the vendor (retailer).

Following is general information pertaining to the **taxpaid cigarette wholesale dealer**, as well as instructions for completing the Taxpaid Cigarette Wholesale Dealer's Monthly Report. For your convenience, Florida Statutes and Administrative Codes are included in this booklet.

## CWD PERMIT

To distribute cigarettes within Florida, a Cigarette Wholesale Dealer (**CWD**) **permit** must be obtained. There are two types of CWD permits within the State of Florida: the CWD who places the excise tax stamp on the package of cigarettes (stamping agent - taxable), and the CWD who purchases the cigarettes with the stamp in place (taxpaid).

A **taxpaid cigarette wholesale dealer** can be any licensed business that sells **stamped** cigarettes to retail dealers for purposes of resale only.

## SURETY BOND

Before receiving a taxpaid CWD permit, the applicant must first file a **surety bond, certificate of deposit, or irrevocable letter of credit** in an amount equal to 110% of the estimated tax liability for 30 days, but not less than \$2,000, along with the completed permit application, with the Division of Alcoholic Beverages and Tobacco. The bond must be underwritten by an insurance company registered to do business in Florida.

## SALES RECORDS

Each cigarette wholesale dealer is required to keep **daily sales tickets or invoices** of cigarette sales. Each sales ticket and invoice must show the correct name and address to whom the cigarettes were sold, the number of packages or cartons of each brand sold, and the correct name of the municipality where sold.

All **records** must be maintained and kept at the licensed place of business for a period of three years, and must be made available for inspection by AB&T employees upon request.

## MONTHLY REPORTING

Each taxpaid CWD is required to **report** cigarette transactions to the Division of Alcoholic Beverages and Tobacco on a monthly basis. All reports will be made on or before the tenth day of the month, reporting product activity for the previous month.

The report must be complete, accurate and timely (Rule 61A-10.024 FAC). Any reports that are not complete, accurate and timely will constitute a violation of the Cigarette Laws of Florida, and the license will be subject to the provisions of revocation and suspension.

*This booklet is designed to give general information about the requirements of maintaining a cigarette wholesale dealer's permit and to guide the taxpaid CWD through the steps of completing the required report forms. Sample forms are included. For more comprehensive information and guidance, questions can be addressed to the appropriate Division of Alcoholic Beverages and Tobacco Auditing Office listed in the back of this booklet.*

## Definitions

"Division" and "AB&T" refers to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

"Cigarette" means any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated, or mixed with any other ingredient.

"Wholesale dealer" is any person located inside or outside the state of Florida who sells cigarettes to retail dealers or other persons for purpose of resale only. 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 current permits under s. 210.15 or to any cigarette manufacturer, export warehouse proprietor, or importer who holds a valid and current permit under 26 U.S.C. s. 5712.

"Retail dealer" is any person located inside or outside this state other than a wholesale dealer engaged in the business of selling cigarettes, including persons issued a permit pursuant to s. 569.003.

"Importer" is any person with a valid permit under 26 U.S.C. s. 5712 who imports into the United States, directly or indirectly, a finished cigarette for sale or distribution.

"Manufacturer" is any domestic person or entity with a valid permit under 26 U.S.C. s. 5712 that manufactures, fabricates, assembles, processes, or labels a finished cigarette.

"Package" is the individual package, box, or other container in or from which retail sales of cigarettes are normally made or intended to be made.

"Unstamped package" or "unstamped cigarettes" are defined as a package on which the tax required by Florida Statutes has not been paid, regardless of whether or not such package is stamped or marked with the indicia of any other taxing authority, or a package on which there has been affixed a counterfeit or fraudulent indicium or stamp.

"Place of business" means any place where cigarettes are sold or where cigarettes are stored or kept for the purpose of sale or consumption.

"Sale" is any transfer, exchange, or barter in any manner, or by any means whatever.

"Retail sale" or "sale at retail" means a sale to consumer or to any person for any purpose other than resale.

"Stamp" or "stamps" are the indicia required to be placed on cigarette packages that evidence payment of the tax on cigarettes under s. 210.02.

"Counterfeit cigarettes" are cigarettes that have false manufacturing labels, tobacco product packs with counterfeit tax stamps, or any combination thereof.



**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**  
 DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO  
 1940 NORTH MONROE STREET • TALLAHASSEE FL 32399-1022

DBPR Form AB&T  
 4000A-225-1  
 Rev. 12/03

**TAXPAID CIGARETTE WHOLESALE DEALER'S MONTHLY REPORT**

Prepare in TRIPLICATE. Submit ORIGINAL and FIRST COPY to the AUDITING OFFICE of the DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO. SECOND COPY is to be retained by the licensee. This report and payment must be filed in accordance with the provisions of Chapter 210, Florida Statutes, on or before the tenth day of the month following the month being reported. Make remittances payable to the "Division of Alcoholic Beverages and Tobacco".

Permit Name \_\_\_\_\_ Phone No. (\_\_\_\_) \_\_\_\_\_ Permit No. \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Month Reported \_\_\_\_\_ Yr \_\_\_\_\_ Reporting Period \_\_\_\_\_ through \_\_\_\_\_

*This report is true and correct to the best of my knowledge and belief and is submitted under penalty of perjury.*

\_\_\_\_\_  
 Typed or Printed Name Authorized Signature

**SUMMARY OF TRANSACTIONS**

	Stamped 20s	Stamped _____ s
1. Beginning Balance		
2. Purchased In-State		
3. Returns to Stock		
4.		
5. Total to Account For (Add lines 1 thru 4)		
6. Sold in County Areas		
7. Sold to Florida Wholesalers		
8.		
9. Total Accounted For (Add lines 6 thru 8)		
10. Book Balance (Line 5 minus line 9)		
11. Inventory (Actual)		
12. Over / Short (Line 11 minus line 10)		

**DAB&T USE ONLY**

REPORT RECEIPT		In's	FIELD REVIEW		In's	CENTRAL PROCESSING		In's
Postmark Date			Initial Review Date			Initial Receipt Date		
Delivery Date			Amended Date			Completed Date		
Delinquency Action			Amended Amount					

DBPR Form 4000A-225-1

This form is available in PDF and Excel format at  
[http://www.myflorida.com/dbpr/abt/forms/index\\_auditing.html](http://www.myflorida.com/dbpr/abt/forms/index_auditing.html)

TAXPAID CIGARETTE WHOLESALER'S REPORT

INSTRUCTIONS FOR PREPARATION

Following are step-by-step instructions for the preparation of the taxpaid cigarette wholesale dealer's monthly excise tax report. The corresponding form page is given so that reference can be made to the report line items. The form pages used for this report are: DBPR Form AB&T 4000A-225-1 and 2. Page 2 is the short form for reporting the purchases and county sales for the taxpaid cigarette wholesale dealer's report. Use this form only if all transactions will fit on page 2. If you have more than 7 transactions for purchases, sales, or sales into more than 7 counties, use DBPR Form AB&T 4000A-205-3, Cigarette Purchases/Sales, and DBPR Form AB&T 4000A-205-4, Cigarette County Sales>Returns to report the monthly transactions.

(Page 1) Stamp Transactions and Cover Page  
DBPR Form AB&T 4000A-225-1

A. HEADING

1. As it appears on the permit, print or type the name of your business, telephone number, and permit number.
2. As it appears on the permit, print or type the physical location address of your business.
3. Print or type the calendar month for which activity is being reported, as well as the beginning and ending dates of the period for which the report is submitted.
4. The printed name and signature of authorized person submitting report (owner or officer of corporation, or another individual authorized by owner or officer of corporation) must be included.

B. SUMMARY OF TRANSACTIONS

*This form is completed after all other schedules have been completed, and totals can be forwarded to this page.*

1. Beginning Balance: The beginning inventory will always be the same as the ending inventory from the previous month. Enter the book balance, page 1, line 10, of the previous month's report, by denomination. *Exception: If a joint inventory was taken with an auditor from the Division of Alcoholic Beverages and Tobacco at the close of business of the previous month, enter the actual inventory numbers from page 1, line 11, of the previous month's report.*
2. Purchased in State: Enter the grand total purchases made in Florida, as recorded on page 2, Schedule A, by denomination.
3. Returns to Stock: Enter the grand total returns, as recorded on page 2, Schedule C, by denomination.
4. BLANK: This line is to be left blank unless instructed to be used by a representative of the Division of Alcoholic Beverages and Tobacco.
5. Total to be Accounted for: Add lines 1 through 4 and enter totals, by denomination. This will give the total number of cigarette packages available for use during the month.
6. Sold in County Areas: Enter grand total packages sold to other Florida CWDs, as recorded on page 2, Schedule B, by denomination.
7. Sold to Florida Wholesalers: Enter grand total packages sold to other Florida CWDs, as recorded on page 2, Schedule B, by denomination.
8. BLANK: This line is to be left blank unless instructed to be used by a representative of the Division of Alcoholic Beverages and Tobacco.
9. Total Accounted for: Add lines 6 through 8 to obtain the total cigarette packages distributed dur-

ing the month, by denomination.

10. Book Balance: Subtract the total packages distributed, line 9, from the total packages available for use during the month, line 5, and enter totals. This should be the number of packages of cigarettes that remain in inventory at the end of the month.
11. Actual Inventory: Enter the figures from the actual inventory (physical count of cigarettes on hand at end of month for which reporting). *NOTE: If a joint inventory was taken with an auditor from the Division of Alcoholic Beverages and Tobacco, enter this figure.*
12. Over/Short: Subtract the ending book balance, line 10, from the actual inventory, line 11. Enter the difference and indicate an overage or shortage with a plus (+) or a minus (-). If line 11 is greater than line 10, the inventory is over (+). If line 11 is less than line 10, the inventory is short (-). *NOTE: Any large differences should be explained.*

*AB&T USE ONLY: Boxes at bottom of page 1 are for Division of Alcoholic Beverages & Tobacco use only. Do not enter any information in these boxes.*

**CIGARETTE MONTHLY REPORT DETAIL**

Permit Name \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_  
 For the Month of \_\_\_\_\_ 20\_\_\_\_ Reporting Period \_\_\_\_\_ through \_\_\_\_\_

**PRODUCT TRANSACTIONS**

Date	Invoice Number	Purchased From	20s	_____ s
<b>Total</b>				

**SCHEDULE B - SOLD TO FLORIDA WHOLESALERS**

Date	Invoice Number	Sold To	20s	_____ s
<b>Total</b>				

**SCHEDULE C - SALES TO / RETURNS FROM COUNTY AREAS**

County Number	County Name	Sales		Returns	
		20s	_____ s	20s	_____ s
<b>Total</b>					



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DBPR Form AB&T  
 4000A-225-2  
 Rev. 12/03

DBPR Form 4000A-225-2

This form is available in PDF and Excel format at  
[http://www.myflorida.com/dbpr/abt/forms/index\\_auditing.html](http://www.myflorida.com/dbpr/abt/forms/index_auditing.html)

*(Page 2) Transactions*  
*DBPR Form AB&T 4000A-225-2*

A. HEADING

1. As it appears on your permit, print the name of your business, along with the city in which your business is located.
2. Print the calendar month for which activity is being reported as well as the beginning and ending dates of the period for which the report is submitted.

B. SCHEDULES

*Schedule A - Purchased in State: Use this form if reporting 7 or fewer purchase invoices; otherwise, use DBPR Form AB&T 4000A-205-3. Refer to page 11.*

1. List each individual purchase invoice by invoice date, invoice number, name of Florida wholesaler cigarettes are purchased from, and number of packages of cigarettes purchased, by denomination.
2. Add invoice amounts and enter the totals at the bottom of Schedule A. Forward the totals to page 1, line 2, by denomination.

*Schedule B - Sold to Florida Wholesalers: Use this form if reporting 7 or fewer sales invoices; otherwise, use DBPR Form AB&T 4000A-205-3. Refer to page 11.*

1. List each individual sales invoice by invoice date, invoice number, name of Florida wholesaler sold to, and number of packages of cigarettes sold, by denomination.
2. Add invoice amounts and enter the totals at the bottom of Schedule B. Forward the totals to page 1, line 7, by denomination.

*Schedule C - Sales to/Return from County Areas: Use this form if reporting 7 or fewer sales to/returns from county areas; otherwise, use DBPR Form AB&T 4000A-205-4. Refer to page 15.*

1. List the county name and number for which you had sales and returns.
  - a. List county codes in numerical sequence. Code 99 is used for sales to itinerant locations or "rolling stores".
  - b. Enter name of county in proper space. (Counties should be listed in numerical/alphabetical order.)
2. Enter number of packages "sold" or "returned", by denomination, for each listed county.
3. Add the county amounts for total county sales to and returns from county areas. Total sales are forwarded to page 1, line 6, and total returns are forwarded to page 1, line 3, by denomination.

Prepare this report in triplicate. Mail the original and one copy of this report to the District Auditing Office of the Division of Alcoholic Beverages and Tobacco servicing your county. The second copy is to be kept by the licensee. This report must be mailed to the AB&T auditing office on or before the tenth day of the month following the month being reported.

Following are instructions for completing DBPR Form AB&T 4000A-205-3 and 4, the long forms for purchases and sales, if the short form will not accommodate all monthly transactions.



*(Page 3) Cigarette Purchases/Sales  
DBPR Form AB&T 4000A-205-3*

Page 3 is a generic multipurpose form. It is to be used to summarize details of each type of monthly transactions if you have too many transactions to fit on the DBPR Form AB&T 4000A-225-2.

A. HEADING

1. Name: As it appears on your permit, print the name of your business, along with the city in which your business is located.
2. Report period: Print the month for which the report is filed, and the beginning and ending date of the period for which the report is submitted.
3. Transaction type: Check the appropriate box for the type of transaction you are reporting. A separate page must be completed for each type of transaction conducted during the month.

B. PRODUCT TRANSACTIONS

GENERAL: All transaction pages are completed as follows:

1. List each individual transaction by invoice date, invoice number, name and address of the company purchased from or sold to, and number of packages purchased, sold, or returned, by denomination.
2. Check box as stamped transactions, by denomination. A separate page must be completed for each category.
3. Use subtotals for each wholesaler. *NOTE: The transactions should be grouped by company.*
4. If more than one page is needed for each type of transaction, subtotal each page and enter the grand total on the bottom of the last page.
5. Forward the grand total for each type of transaction to the appropriate line on page 1.
6. If it is necessary to correct your report for an error in reporting purchases or sales for a prior month, make the correction on the appropriate schedule as follows:
  - a. After all normal monthly purchases or sales have been listed for the supplier/purchaser, subtotal the transactions.
  - b. Immediately after the subtotal, list corrections by showing the invoice date, invoice number, and the name of the supplier/purchaser.
  - c. Enter only the figure necessary to correct the previous error and indicate whether this is a plus (+) or minus (-) difference.
  - d. Add or subtract this figure to the subtotal to arrive at the total purchased from or sold to the supplier/purchaser.

*SPECIFIC: Following are directions specific to each transaction type.*

Purchased In State:

1. Forward the grand total purchases in-state to page 1, line 2.

Sold to Florida Wholesalers:

2. Forward grand total sales to Florida wholesalers to page 1, line 7.
3. Be certain to list name of wholesaler by correct name and address as it appears on their permit. A good policy is to obtain their CWD permit number as well.
4. If it is necessary to correct your report for an error in reporting purchases or sales for a prior month, make the correction on the appropriate schedule as follows:
  - a. After all normal monthly purchases or sales have been listed for the supplier/purchaser, subtotal the transactions.
  - b. Immediately after the subtotal, list corrections by showing the invoice date, invoice number, and the name of the supplier/purchaser.
  - c. Enter only the figure necessary to correct the previous error and indicate whether this is a plus (+) or minus (-) difference.
  - d. Add or subtract this figure to the subtotal to arrive at the total purchased from or sold to the supplier/purchaser.

Miscellaneous:

1. Forward combined grand total for miscellaneous disposition entries to page 1, line 8, in the appropriate column.
2. Included under miscellaneous are losses of stamped packages from warehouse or vehicle due to fire, theft, or robbery. Attach a copy of the police report. Telephone the District Auditing Office immediately for losses of cigarette packages.

**CIGARETTE MONTHLY REPORT COUNTY SALES / RETURNS**

Permit Name \_\_\_\_\_ of \_\_\_\_\_ FL

For the Month of \_\_\_\_\_ 20\_\_\_\_ Reporting Period \_\_\_\_\_ through \_\_\_\_\_

**SALES / RETURNS TRANSACTIONS**

A separate page must be completed for each type of transaction, and for each package size.  
Totals will be forwarded to page 2 of the report

COUNTY AREAS

Sold In

Returned From

PACKAGE SIZE

20s

25s

Others \_\_\_\_\_

County	# Packages	County	# Packages	County	# Packages
11 Alachua		34 Hamilton		57 Okeechobee	
12 Baker		35 Hardee		58 Orange	
13 Bay		36 Hendry		59 Osceola	
14 Bradford		37 Hernando		60 Palm Beach	
15 Brevard		38 Highlands		61 Pasco	
16 Broward		39 Hillsborough		62 Pinellas	
17 Calhoun		40 Holmes		63 Polk	
18 Charlotte		41 Indian River		64 Putnam	
19 Citrus		42 Jackson		65 St. Johns	
20 Clay		43 Jefferson		66 St. Lucie	
21 Collier		44 Lafayette		67 Santa Rosa	
22 Columbia		45 Lake		68 Sarasota	
23 Dade		46 Lee		69 Seminole	
24 DeSota		47 Leon		70 Sumter	
25 Dixie		48 Levy		71 Suwannee	
26 Duval		49 Liberty		72 Taylor	
27 Escambia		50 Madison		73 Union	
28 Flagler		51 Manatee		74 Volusia	
29 Franklin		52 Marion		75 Wakulla	
30 Gadsden		53 Martin		76 Walton	
31 Gilchrist		54 Monroe		77 Washington	
32 Glades		55 Nassau			
33 Gulf		56 Okaloosa		99 Rolling Stores	
<b>TRANSACTION TOTAL</b>		<i>Transfer page total to applicable line on Summary Page</i>			



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DBPR Form AB&T  
4000A-205-4  
Rev. 12/03

DBPR Form 4000A-205-4

This form is available in PDF and Excel format at  
[http://www.myflorida.com/dbpr/abt/forms/index\\_auditing.html](http://www.myflorida.com/dbpr/abt/forms/index_auditing.html)

*(Page 4) Cigarette County Sales/Returns  
DBPR Form AB&T 4000A-205-4*

This is a multipurpose form for the details of monthly transactions. A separate page must be completed for each type of transaction conducted during the month if you have too many transactions to fit on the DBPR Form AB&T 4000A-225-2.

A. HEADING

1. Name: As it appears on your permit, print the name of your business, along with the city in which your business is located.
2. Report period: Print the month for which the report is filed, and the beginning and ending date of the period for which the report is submitted.
3. Transaction type: Check the appropriate box for the type of transaction you are reporting. A separate page must be completed for each type of transaction conducted within each package size during the month.

B. TRANSACTIONS

Sold in County Areas (packages of 20s):

1. Enter the total of packages sold to retail vendors in each county. Each county is listed in alphabetical order, with county code number reflected. Code 99 is used for sales to itinerate locations or "rolling stores". Forward grand total for sales to county areas to page 1, line 6, stamped column.

*NOTE: If cigarettes packaged other than 20s are sold, use this page as directed above for packages of 20s and mark the appropriate package size. A separate page must be completed for each size packages sold in Florida, forwarding the totals to page 1, line 6.*

Returns to Stock:

1. Forward grand total for page 4 returns to stock from counties to page 1, line 3, in the appropriate stamped column.
2. Each county is listed in alphabetical order with county code number reflected. Code 99 is used for sales to itinerate locations or "rolling stores".

*NOTE: Vending machine operators are now permitted as retail dealers under the new cigarette law. Cigarette wholesale dealers will no longer have vending machines and need not file vending machine reports.*

## Specific to Taxpaid Cigarette Wholesale Dealer

### Florida Statutes

#### **210.02 Cigarette tax imposed; collection.--**

(1) An excise or privilege tax, in addition to all other taxes of every kind imposed by law, is imposed upon the sale, receipt, purchase, possession, consumption, handling, distribution, and use of cigarettes in this state, in the following amounts, except as hereinafter otherwise provided, for cigarettes of standard dimensions:

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

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

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

(2) The description of cigarettes contained in paragraphs (a), (b), and (c) of subsection (1) are hereby declared to be standard as to dimensions for taxing purposes as provided in this law and should any cigarette be received, purchased, possessed, sold, offered for sale, given away, or used of a size other than of standard dimensions, the same shall be taxed at the rate of 1.41 cents on each such cigarette.

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

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

(b) Packages containing more than 10 but not more than 20 cigarettes require a 33.9-cent tax.

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

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

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

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

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

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

(6) This tax shall be paid by the dealer to the division for deposit and distribution as hereinafter provided upon the first sale or transaction within the state, whether or not such sale or transfer be to the ultimate purchaser or consumer. The seller or dealer shall collect the tax from the purchaser or consumer, and the purchaser or consumer shall pay the tax to the seller. The seller or dealer shall be responsible for the collection of the tax and the payment of the same to the division. All taxes are due not later than the 10th day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate of 1 percent per month. If the amount of tax due for a given period is assessed without allocating it to any particular month, the interest shall begin with the date of the assessment. Whenever cigarettes are shipped from outside the state to anyone other than a distributing agent or wholesale dealer, the person receiving the cigarettes shall be responsible for the tax on said cigarettes and the payment of same to the division.

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

#### **210.04 Construction; exemptions; collection.--**

(1) The amount of taxes advanced and paid to the state aforesaid shall be added to and collected as a part of the sales price of the cigarettes sold or distributed, which amount may be stated separately from the price of the cigarettes on all display signs, sales and delivery slips, bills and statements which advertise or indicate the price of the product.

(2) The cigarette tax imposed shall be collected only once upon the same package or container of such

cigarettes.

(3) No tax shall be imposed by this part upon cigarettes not within the taxing power of the state under the Commerce Clause of the United States Constitution.

(4) No tax shall be required to be paid:

(a) Upon cigarettes sold at post exchanges, ship service stores, ship stores, slop chests, or base exchanges to members of the Armed Services of the United States when such post exchanges, ship service stores, or base exchanges are operated under regulations of the Army, Navy, or Air Force of the United States on military, naval, or air force reservations in this state or when such ship stores or slop chests are operated under the regulations of the United States Navy on ships of the United States Navy; however, it is unlawful for anyone, including members of the Armed Services of the United States, to purchase such tax-exempt cigarettes for purposes of resale. Any person who resells, or offers for resale, tax-exempt cigarettes purchased at post exchanges, ship service stores, ship stores, slop chests, or base exchanges is guilty of a violation of the cigarette tax law, punishable as provided in s. 210.18(1).

(b) Upon the sale or gift of cigarettes by charitable organizations to bona fide patients in regularly established government veterans' hospitals in Florida for the personal use or consumption of such patients.

(5) It shall be presumed that all cigarettes are subject to the tax imposed by this part until the contrary is established, and the burden of proof that they are not taxable shall be upon the person having possession of them.

(6) The sale of single or loose unpacked cigarettes is prohibited. The division may authorize any person to give away sample packages of cigarettes, each to contain not less than two cigarettes upon which the taxes have been paid.

(8) Except as hereinafter provided, all agents shall be liable for the collection and payment of the tax imposed by this part and shall pay the tax to the division by purchasing, under such regulations as it shall prescribe adhesive stamps of such design and denominations as it shall prescribe.

(9) Agents, located within or without the state, shall purchase stamps and affix such stamps in the manner prescribed to packages or containers of cigarettes to be sold, distributed, or given away within the state, in which case any dealer subsequently receiving such stamped packages of cigarettes will not be required to purchase and affix stamps on such packages of cigarettes. However, the division may, in its discretion, authorize manufacturers to distribute in the state free sample packages of cigarettes containing not less than 2 or more than 20 cigarettes without affixing any tax stamps provided copies of shipping invoices on such cigarettes are furnished, and payment of all taxes imposed on such cigarettes by law is made, directly to the division not later than the 10th day of each calendar month. The tax on cigarettes in sample packages shall be based on a unit in accordance with the taxing provisions of s. 210.02(1).

#### **210.06 Affixation of stamps; presumption.--**

(1) Every dealer within the state shall affix or cause to be affixed to such package or container of such cigarettes such stamps as are required under this section within 10 days after receipt of such products. Dealers outside this state shall affix such stamps before the shipment of cigarettes into this state.

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

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

(c) Dealers may apply stamps only to cigarette packages received directly from a manufacturer or importer of cigarettes, or a distributing agent representing a manufacturer or importer of cigarettes, who possesses a valid and current permit under this part.

(2) Each retail dealer shall open such box, carton or other container of cigarettes prior to exposing for sale or selling such cigarettes and examine the packages contained therein for the purpose of ascertaining whether or not the said packages have affixed thereto the proper tax stamp. If unstamped or improperly stamped packages of cigarettes are discovered, the retail dealer shall immediately notify the dealer from whom said cigarettes were purchased. Upon such notification, the dealer from whom said cigarettes

were purchased shall replace such unstamped or improperly stamped packages of cigarettes with those upon which stamps have been properly affixed, or immediately affix thereto the proper amount of stamps.

(3) Whenever any cigarettes are found in the place of business of any such retail dealer, or in the possession of any other person without the stamps affixed, the presumption shall be that such cigarettes are kept in violation of the provisions of this law.

(4) Stamps shall be affixed to each package of cigarettes of an aggregate denomination not less than the amount of the tax upon the contents therein, and shall be affixed in such manner as to be visible to the purchaser. All stamps shall be affixed in the manner prescribed by the division. The state may not impose an additional charge on stamps for printing costs.

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

#### **210.07 Metering machines.--**

(1)(a) The tax may also be paid through the use of cigarette tax stamp insignia to be applied by the use of metering machines. The division shall prescribe and promulgate appropriate rules and regulations governing the use of metering machines, the procedure for the payment of such cigarette taxes through the use thereof, requiring adequate surety bonds of the users thereof to assure the proper use of such machines and payment of all cigarette taxes that might come due by the users thereof, and all other rules and regulations necessary and proper to govern the use of same.

(b) The provisions of s. 210.05(3)(a) and (b) shall be applicable to cigarette taxes paid through the use of metering machines.

(2) All provisions of this part governing the use of cigarette tax stamps, the compiling of records, the making of reports, permits and revocation of permits, seizures and forfeitures, penalties, and all other provisions pertaining to the payment of cigarette taxes through the use of stamps, shall likewise be applicable to the payment of said taxes through the use of metering machines.

**210.08 Bond for payment of taxes.--**Each dealer, agent, or distributing agent shall file with the division a surety bond, certificate of deposit, or irrevocable letter of credit acceptable to the division in an amount equal to 110 percent of the estimated tax liability for 30 days, but not less than \$2,000

#### **210.09 Records to be kept; reports to be made; examination.--**

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

(b) Any person who ships unstamped cigarette packages into this state other than to a manufacturer, an importer, or a distributing agent representing a manufacturer or an importer, or dealer holding a valid, current permit pursuant to s. 210.15 shall first file with the division a notice of such shipment. This paragraph shall not apply to any common or contract carrier that:

1. Is transporting cigarettes through this state to another location outside this state under a proper bill of lading or freight bill that states the quantity, source, and destination of such cigarettes or to cigarettes shipped or otherwise transported pursuant to s. 210.04(9); or
2. Does not issue paper bills of lading or freight bills and does not obtain specific information about the contents of the shipment that includes a description of the freight carried but uses electronic shipping documents as part of its ordinary course of business to provide transportation services for individually addressed packages weighing less than 150 pounds, which electronic shipping documents shall be made available for inspection upon request.

(c) In any case in which the division or its duly authorized agent, or any law enforcement officer of this state, has probable cause to believe that any vehicle is transporting cigarettes in violation of this part, the division, such agent, or such law enforcement officer is authorized to stop such vehicle and inspect the vehicle for contraband cigarettes.

(2) The division is authorized to prescribe and promulgate by rules and regulations, which shall have the force and effect of the law, such records to be kept and reports to be made to the division by any manufacturer, importer, distributing agent, wholesale dealer, retail dealer, common carrier, or any other person handling, transporting or possessing cigarettes for sale or distribution within the state as may be necessary to collect and properly distribute the taxes imposed by s. 210.02. All reports shall be made on or before the 10th day of the month following the month for which the report is made, unless the division by rule or regulation shall prescribe that reports be made more often.

(3) All manufacturers, importers, distributing agents, wholesale dealers, agents, or retail dealers shall maintain and keep for a period of 3 years at the place of business where any transaction takes place, such records of cigarettes received, sold, or delivered within the state as may be required by the division. The division or its duly authorized representative is hereby authorized to examine the books, papers, invoices, and other records, the stock of cigarettes in and upon any premises where the same are placed, stored, and sold, and the equipment of any such manufacturers, importers, distributing agents, wholesale dealers, agents, or retail dealers, pertaining to the sale and delivery of cigarettes taxable under this part. To verify the accuracy of the tax imposed and assessed by this part, each person is hereby directed and required to give to the division or its duly authorized representatives the means, facilities, and opportunity for such examinations as are herein provided for and required.

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

(b) The division shall suspend or revoke the license of any person who is either a cigarette wholesaler or distributing agent upon sufficient cause appearing that the said persons, their agents or employees have failed to keep daily sales tickets or invoices in accordance with this section.

(5) Common carriers in this state are required to report to the division all packages or cartons of unstamped cigarettes which are refused by the consignee because of damage or otherwise. Authority in writing from the division must be obtained to sell or dispose of such unstamped cigarettes. Any dealer or distributing agent, who refuses any shipment or part of a shipment of unstamped cigarettes, must show in the next monthly report to the division the number of packages or cartons of cigarettes refused and the name of the common carrier from whom the cigarettes were refused.

#### **210.15 Permits.--**

(1)(a) Every person, firm, or corporation desiring to engage in business as a manufacturer, importer, exporter, distributing agent, or wholesale dealer of cigarettes within this state shall file with the division an application for a cigarette permit for each place of business located within this state or, in the absence of such place of business in this state, for wherever its principal place of business is located. Every application for a cigarette permit shall be made on forms furnished by the division and shall set forth the name under which the applicant transacts or intends to transact business, the location of the applicant's place of business within the state, if any, and such other information as the division may require. If the applicant has or intends to have more than one place of business dealing in cigarettes within this state, the application shall state the location of each place of business. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof and any other information prescribed by the division for the purpose of identification. The application shall be signed and verified by oath or affirmation by the owner, if a natural person, and in the case of an association or partnership, members or partners thereof, and in the case of a corporation, by an executive officer thereof or by any person specifically au-

thorized by the corporation to sign the application, to which shall be attached the written evidence of this authority.

(b) Permits shall be issued only to persons of good moral character, who are not less than 18 years of age. Permits to corporations shall be issued only to corporations whose officers are of good moral character and not less than 18 years of age.

There shall be no exemptions from the permit fees herein provided to any persons, association of persons, or corporation, any law to the contrary notwithstanding.

(c) No permit under this part or chapter 569 shall be issued, maintained, or renewed if the applicant, its officers, or any person or persons owning directly or indirectly, in the aggregate, more than 10 percent of the ownership interests in the applicant:

1. Has been finally adjudicated as owing \$500 or more in delinquent cigarette taxes;
2. Had a permit revoked by the division within the previous 2 years;
3. Has been convicted of selling stolen or counterfeit cigarettes, receiving stolen cigarettes, or being involved in the counterfeiting of cigarettes;
4. Has been convicted within the past 5 years of any offense against the cigarette laws of this state or convicted in this state, any other state, or the

United States during the past 5 years of any offense designated as a felony by such state or the United States, or to a corporation, any of whose officers have been so convicted. The term "convicted" shall include an adjudication of guilt on a plea of guilty or a plea of nolo contendere, or the forfeiture of a bond when charged with a crime;.

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

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

(d) The division may refuse to issue a permit to any person, firm, or corporation whose permit under the cigarette law has been revoked, or to any corporation, an officer of which has had his or her permit under the cigarette law revoked, or to any person who is or has been an officer of a corporation whose permit has been revoked under the cigarette law. Any permit issued to a firm or corporation prohibited from obtaining such permit under the cigarette law may be revoked by the division.

(e) Prior to an application for a distributing agent, wholesale dealer, or exporter permit being approved, the applicant shall file a set of fingerprints on forms provided by the division. The applicant shall also file a set of fingerprints for any person or persons interested directly or indirectly with the applicant in the business for which the permit is being sought, when so required by the division. If the applicant or any person interested with the applicant, either directly or indirectly, in the business for which the permit is sought shall be such a person as is within the definition of persons to whom a permit shall be denied, then the application may be denied by the division. If the applicant is a partnership, all members of the partnership are required to file said fingerprints, or if a corporation, all principal officers of the corporation are required to file said fingerprints. The cigarette permit for a manufacturer, importer, distributing agent, wholesale dealer, or exporter shall be originally issued at a fee of \$100, which sum is to cover the cost of the investigation required before issuing such permit.

(f) The cigarette permits issued under this section shall be renewed from year to year at an annual cost of \$100, on or before July 1, upon making application to the division and upon payment of the annual renewal fee.

(g) Permittees, by acceptance of their permits, agree that their places of business or vehicles transporting cigarettes shall always be subject to be inspected and searched without a search warrant for the purpose of ascertaining that all provisions of this part are complied with by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or during any other time such premises are occupied by the permittee or other persons. Retail cigarette dealers and manufacturers' representatives, by dealing in cigarettes, agree that their places of business or vehicles transporting cigarettes shall always be subject to inspection and search without a search warrant for the purpose of ascertaining that all provisions of this part are complied with by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or other times when the premises are occupied by the retail dealer or manufacturers' representatives or other persons.

(h) No retail sales of cigarettes may be made at a location for which a wholesale dealer, distributing agent, or exporter permit has been issued. The excise tax on sales made to any traveling location, such as an

itinerant store or industrial caterer, shall be paid into the General Revenue Fund unallocated. Cigarettes may be purchased for retail purposes only from a person holding a wholesale dealer permit. The invoice for the purchase of cigarettes must show the place of business for which the purchase is made and the cigarettes cannot be transferred to any other place of business for the purpose of resale.

(2) The division may not furnish stamps or approve the use of meter machines to evidence the payment of the taxes on cigarettes except to qualified wholesale dealers.

(3) Upon approval of the application, the division shall grant and issue to each applicant a cigarette permit for each place of business set forth in the application. Cigarette permits shall not be assignable and shall be valid only for the persons in whose names issued and for the transaction of business at the places designated therein and shall at all times be conspicuously displayed at the places for which issued.

(4) All permits of distributing agents, wholesale dealers, or exporters shall remain in force and effect until July 1 following their issuance, or until suspended or revoked for cause by the division, or surrendered by the permitholder.

(5) Whenever any permit issued under the provisions of this part is destroyed or lost, the holder thereof shall immediately make application for a duplicate permit on a form prescribed by the division, which application shall be filed with the division. The said application shall be under oath and shall state that the applicant is a holder of a valid permit which has been destroyed or lost as the case may be and that the said permit has not been suspended or revoked for cause by the division or surrendered by the permitholder.

(6) Applicants for a permit hereunder, by the acceptance of such permit, agree that their places of business covered by such permit shall always be subject to be inspected and searched without search warrant by the division or any of its authorized assistants and also by sheriffs, deputy sheriffs or police officers.

(7) The division shall promulgate suitable rules for carrying out the provisions of this section.

(8) Every person, firm, corporation, or business entity who deals in, or sells, stores, or operates as a wholesale dealer in, cigarettes, or who acts as a cigarette distributing agent or exporter in any manner whatsoever, and who does so without a cigarette permit as required by this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

#### **210.151 Initial temporary cigarette permits.--**

When a person has filed a completed application which does not on its face disclose any reason for denying a cigarette permit under s. 210.15, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation shall issue a temporary initial permit of the same type and series for which the application has been submitted, which is valid for all purposes under this chapter.

(1) A temporary initial permit shall be valid for up to 90 days and may be extended by the division for up to an additional 90 days for good cause. The division may at any time during such period grant or deny the permit applied for, notwithstanding s. 120.60.

(2) A temporary initial permit expires and may not be continued or extended beyond the date the division denies the permit applied for; beyond 14 days after the date the division approves the permit applied for; beyond the date the applicant pays the permit fee and the division issues the permit applied for; or beyond the date the temporary permit otherwise expires by law, whichever date occurs first.

(3) Each applicant seeking a temporary initial cigarette permit shall pay to the division for such permit a fee of \$100.

(4) Any fee or penalty collected under the provisions of this section shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund.

**210.16 Revocation or suspension of permit.--**

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

(2) The division shall revoke the permit or permits of any person who would be ineligible to obtain a new license or renew a license by reason of any of the conditions for permitting provided in s. 210.15(1)(c)1.-6.

(3) The division may suspend for a reasonable period of time or revoke, in its discretion, the permits issued under the provisions of this part or chapter 569 to any person who has violated any other provision of this part or chapter.

(4) No person whose permit for any place of business has been revoked shall engage in business under this part or chapter 569 at such place of business after such revocation until a new permit is issued. No person whose permit for any place of business has been revoked shall be permitted to have said permit renewed, or to obtain an additional cigarette permit for any other place of business, for a period of 2 years after the date such revocation becomes final.

(5) In addition to the suspension or revocation of permits, the division may impose civil penalties against holders of permits for violations of this part or rules and regulations relating thereto. No civil penalty so imposed shall exceed \$2,500 for each offense, and all amounts collected shall be deposited with the Chief Financial Officer to the credit of the General Revenue Fund. If the holder of the permit fails to pay the civil penalty, his or her permit shall be suspended for such period of time as the division may specify.

**210.1605 Renewal of permit.--**

(1) A permit may be renewed after its expiration only by filing with the division a delinquent application for approval and upon payment of a penalty of \$20 for each month or part of a month of such delinquency. A permit not renewed within 60 days after its expiration date shall be canceled by the division unless the permit is involved in litigation. However, the division may allow a permittee to renew a permit after the 60-day period for good and sufficient cause.

(2) Any fee or penalty collected under the provisions of this section shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund.

**210.161 Examination of records.--**

The division, or any employee designated by it, shall have the power and authority to examine into the business, books, records, and accounts of any permittee and to issue subpoenas to said permittee or any other person from whom information is desired and to take depositions of witnesses within or without the state. The division, or any employee designated by it, may administer oaths and issue subpoenas. The provisions of the civil law of the state in relation to enforcing obedience to a subpoena lawfully issued by a judge or other person duly authorized to issue subpoenas in civil cases shall apply to a subpoena issued by the division, or any employee designated by it, as authorized in this section, and may be enforced by writ of attachment to be issued by the division, or any employee designated by it, for such witness to compel him or her to attend before the division, or any employee designated by it, and give testimony and to bring and produce such books, papers, and documents as may be required for examination. The division, or any employee designated by it, may punish any willful refusal to so appear or give testimony by citation of any witness before the circuit court which shall punish such witness for contempt as in cases of refusal to obey the orders and process of the circuit court. The division may in such cases pay such attendance and mileage fees as are permitted to witnesses in civil cases appearing before the circuit court.

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

(1) Any person who possesses or transports any unstamped packages of cigarettes upon the public highways, roads, or streets in the state for the purpose of sale; or who sells or offers for sale unstamped packages of cigarettes in violation of the provisions of this part; or who willfully attempts in any manner to evade or defeat any tax imposed by this part, or the payment thereof, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who has been convicted of a

violation of any provision of the cigarette tax law and who is thereafter convicted of a further violation of the cigarette tax law is, upon conviction of such further offense, guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Except as otherwise provided in this section, any person who fails, neglects, or refuses to comply with, or violates the provisions of, this part or the rules adopted by the division under this part commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who has been convicted of a violation of any provision of the cigarette tax law and who is thereafter convicted of a further violation of the cigarette tax law is, upon conviction of such further offense, guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

(4)(a) Any person or corporation that owns or is in possession of any cigarettes upon which a tax is imposed by the cigarette law, or would be imposed if such cigarettes were manufactured in or brought into this state in accordance with the regulatory provisions of the cigarette law, and upon which such tax has not been paid is, in addition to the fines and penalties otherwise provided in the cigarette law, personally liable for the amount of the tax imposed on such cigarettes; and the division may collect such tax from such person or corporation by suit or by restitution if the taxpayer is convicted, found guilty, or pleads nolo contendere or guilty to any crime under this chapter. This paragraph is applicable even if adjudication is withheld.

(b) This subsection does not apply to a manufacturer or distributor licensed under the cigarette law, to a state bonded warehouse, or to a person possessing not in excess of three cartons of such cigarettes, which cigarettes were purchased by such possessor outside the state in accordance with the laws of the place where purchased and brought into this state by such possessor. The burden of proof that such cigarettes were purchased outside the state and in accordance with the laws of the place where purchased shall in all cases be upon the possessor of such cigarettes.

(5)(a) All cigarettes on which taxes are imposed by the cigarette law, or would be imposed if such cigarettes were manufactured in or brought into this state in accordance with the regulatory provisions of such law, which are found in the possession or custody or within the control of any person for the purpose of being sold or removed by him or her in fraud of the cigarette law or with design to evade payment of such taxes may be seized by the division or any supervisor, sheriff, deputy sheriff, or other law enforcement agent and shall be forfeited to the state.

(b) This subsection does not apply to a person possessing not in excess of three cartons of cigarettes, which cigarettes were purchased by such possessor outside the state in accordance with the laws of the place where purchased and brought into this state by such possessor.

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

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

(c) This section does not apply to a person possessing not in excess of three cartons of such cigarettes

purchased by such possessor outside the state in accordance with the laws of the place where purchased and brought into this state by such possessor. The burden of proof that such cigarettes were purchased outside the state and in accordance with the laws of the place where purchased shall in all cases be upon the possessor of such cigarettes.

(7) Any sheriff, deputy sheriff, or police officer, or state law enforcement officer, upon the seizure of any unstamped cigarettes under this section, shall promptly report such seizure to the division or its representative, together with a description of all such unstamped cigarettes seized, so that the state may be kept informed as to the size and magnitude of the illicit cigarette business. The division shall keep records showing the number of seizures and seized cigarettes reported to, or seized by, the division.

(8)(a) It is unlawful for any person to conspire with any other person or persons to do any act in violation of the provisions of this part, when any one or more of such persons does or commits any act to effect the object of the conspiracy.

(b) Any person who violates the provisions of this subsection:

1. If the act conspired to be done would constitute a misdemeanor, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
2. If the act conspired to be done would constitute a felony, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) Notwithstanding any other provision of law, the sale or possession for sale of counterfeit cigarettes by any person or by a manufacturer, importer, distributing agent, wholesale dealer, or retail dealer shall result in the seizure of the product and related machinery by the division or any law enforcement agency.

(10) It is unlawful to sell or possess with the intent to sell counterfeit cigarettes, as defined in s. 210.01(22).

(a) A person who does not hold a permit or holds a retail permit under the provisions of this chapter and who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and is subject to the imposition of fines and additional penalties as follows:

1. If the quantity of counterfeit cigarettes sold or possessed with the intent to sell is less than two cartons or the equivalent, the fine for a first violation shall not exceed \$1,000 or five times the retail value of the counterfeit cigarettes, whichever is greater. A subsequent violation may result in the imposition of a fine not to exceed \$5,000 or five times the retail value of the counterfeit cigarettes, whichever is greater, and shall result in revocation of the retail permit by the division.
2. If the quantity of counterfeit cigarettes sold or possessed with the intent to sell is two cartons or more or the equivalent, the fine for a first violation shall not exceed \$2,000 or five times the retail value of the counterfeit cigarettes, whichever is greater. A subsequent violation may result in the imposition of a fine not to exceed \$50,000 or five times the retail value of the counterfeit cigarettes, whichever is greater, and shall result in revocation of the retail permit by the division.

(b) A person who holds a permit, other than a retail permit, under the provisions of this chapter and who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and is subject to the imposition of fines and additional penalties as follows:

1. If the quantity of counterfeit cigarettes sold or possessed with the intent to sell is less than 10 cartons or the equivalent, the fine for a first violation shall not exceed \$1,000 or five times the retail value of the counterfeit cigarettes, whichever is greater. A subsequent violation may result in the imposition of a fine not to exceed \$5,000 or five times the retail value of the counterfeit cigarettes, whichever is greater, and shall result in revocation of the permit by the division.
2. If the quantity of counterfeit cigarettes sold or possessed with the intent to sell is 10 cartons or more or the equivalent, the fine for a first violation shall not exceed \$2,000 or five times the retail value of the counterfeit cigarettes, whichever is greater. A subsequent violation may result in the imposition of a fine not to exceed \$50,000 or five times the retail value of the counterfeit cigarettes, whichever is greater, and shall result in revocation of the permit by the division.

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

## Florida Administrative Codes

### **61A-10.015 Transfer, Unstamped Cigarettes.**

A cigarette wholesaler or distributing agent may not transfer, transport, loan, sell or borrow unstamped cigarettes from another licensed wholesaler or distributing agent unless good and sufficient cause for such transaction is shown to the director and written permission for such transaction is granted by the director. Approval by the director is not required if the transaction of the cigarette wholesaler or distributing agent is between locations operated by the same permittee for which a permit has been issued and includes movement of the cigarettes from the cigarette distributing agent location to a wholesale dealer location or between cigarette wholesale dealer locations. Transactions involving unstamped cigarettes which are not required to be approved by the director must be concluded and reported during the same reporting period.

### **61A-10.018 Invoices, Cigarette Sales to Retail Dealers.**

(1) Cigarette wholesalers are required to keep sales tickets or invoices covering all sales of cigarettes to retail dealers.

(3) Invoices of cigarette sales by wholesale dealers to retail tobacco products dealers must include:

- (a) Seller's business name, address, and state distributor's permit number;
- (b) Purchaser's business name;
- (c) Purchaser's name (individual, partnership, or corporation);
- (d) Business address of purchaser, including county name or numeric code as found in the retail tobacco products dealer state permit number, and required under Sections 218.215, 218.23, 218.245, 218.25, and 218.26, Florida Statutes;
- (e) Retail tobacco products dealer state permit number;
- (f) Date of delivery;
- (g) Number of packages or cartons of each brand sold or delivered; and
- (h) If products other than cigarettes are located on an invoice to the retailer, cigarettes shall be listed following one another in uninterrupted order.

(4) Invoices which include both cigarettes and other tobacco products must meet the minimum requirements set forth in this rule and Rule 61A-10.0181, FAC.

Division of Alcoholic Beverages and Tobacco  
**District Auditing Offices**

**Pensacola**

4900 Bayou Blvd, Ste 210  
Bayou Corporate Center  
Pensacola FL 32503  
850.494.5958  
*Escambia, Holmes, Okaloosa, Santa Rosa, Walton, Washington*

**Tallahassee**

1940 North Monroe St  
Northwood Centre  
Tallahassee FL 32399-1026  
850.922.2288  
*Bay, Calhoun, Dixie, Franklin, Gadsden, Gulf, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Taylor, Wakulla*

**Jacksonville**

7960 Arlington Expwy, Ste 601  
Jacksonville FL 32211  
904.727.5554  
*Alachua, Baker, Bradford, Clay, Columbia, Duval, Gilchrist, Hamilton, Nassau, Putnam, St. Johns, Suwannee, Union*

**Orlando**

400 West Robinson St, Rm 709  
North Tower, Hurston Bldg  
Orlando FL 32801-1700  
407.245.0765  
*Brevard, Citrus, Flagler, Indian River, Lake, Levy, Marion, Orange, Osceola, Seminole, Sumter, Volusia*

**Tampa**

1313 Tampa St  
Park Trammel Bldg, Ste 914  
Tampa FL 33602-3303  
813.272.2613  
*Charlotte, DeSoto, Glades, Hardee, Hernando, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, Sarasota*

**Fort Lauderdale**

5080 Coconut Creek Pkwy, Ste B  
Margate FL 33063-3942  
954.917.1352  
*Broward, Collier, Hendry, Martin, Okeechobee, Palm Beach, St. Lucie*

**Miami**

8240 N.W. 52<sup>nd</sup> Terrace, Suite 302  
Doral, FL 33166  
305.470.5044  
*Dade, Monroe*

Division of Alcoholic Beverages and Tobacco  
**District Licensing & Enforcement Offices**

**Pensacola**

4900 Bayou Blvd, Ste 210  
Bayou Corporate Center

Pensacola FL 32503  
850.494.5970  
*Escambia, Okaloosa, Santa Rosa*

**Panama City**

7948 Front Beach Rd  
Panama City FL 32407  
850.236.3050  
*Bay, Calhoun, Gulf, Holmes, Jackson, Walton, Washington*

**Tallahassee**

1940 North Monroe St  
Northwood Centre  
Tallahassee FL 32399-1021  
850.488.4271  
*Franklin, Gadsden, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Wakulla*

**Jacksonville**

7960 Arlington Expwy, Ste 600  
Jacksonville FL 32211  
Licensing: 904.727.5552; Enforcement: 904.727.5550  
*Baker, Bradford, Clay, Columbia, Duval, Hamilton, Nassau, St. Johns, Union*

**Gainesville**

240 NW 76<sup>th</sup> Dr, Ste B  
Gainesville FL 32607  
352.333.2515  
*Alachua, Citrus, Dixie, Gilchrist, Levy, Marion, Putnam, Sumter, Taylor*

**Orlando**

400 West Robinson St, Rm 709  
North Tower, Hurston Bldg  
Orlando FL 32801  
Licensing: 407.245.0785; Enforcement: 407.245.0780  
*Brevard, Flagler, Lake, Orange, Osceola, Seminole, Volusia*

**Tampa**

1313 Tampa St  
Park Trammel Bldg, Ste 909  
Tampa FL 33602  
813.272.2610  
*Hardee, Hernando, Highlands, Hillsborough, Pasco, Pinellas, Polk*

**Fort Myers**

4100 Center Point Dr, Ste 101  
Fort Myers FL 33916  
Licensing: 941.278.7195; Enforcement: 941.278.7337  
*Charlotte, Collier, DeSoto, Glades, Hendry, Lee, Manatee, Sarasota*

**Fort Lauderdale**

5080 Coconut Creek Pkwy, Ste C  
Margate FL 33063-3942  
Licensing: 954.917.1350; Enforcement: 954.917.1346  
*Broward*

**Fort Pierce**

4984 S 25<sup>th</sup> St  
Fort Pierce FL 34981  
561.468.3927  
*Indian River, Martin, Okeechobee, St. Lucie*

**West Palm Beach**

400 North Congress Ave, Ste 150

West Palm Beach FL 33401  
Licensing: 561.682.0077; Enforcement: 561.681.6200  
*Palm Beach*

**Miami**

8240 N.W. 52<sup>nd</sup> Terrace, Suite 303  
Doral, FL 33166  
305.470.5044  
*Dade*

**Key West**

3141 Riviera Drive  
Key West, FL 33040  
305.292.6755  
*Monroe*