

HB 1049

2012

1 A bill to be entitled
2 An act relating to the surcharge on cigarettes;
3 providing a short title; amending s. 210.011, F.S.;
4 increasing the surcharge rates applicable to packages
5 of cigarettes containing various quantities of
6 cigarettes of specified weights and lengths;
7 establishing a separate fee rollback account in a
8 specified trust fund; requiring specified amounts of
9 the surcharge on packages of cigarettes to be
10 deposited in such separate fee rollback account;
11 providing requirements and procedures with respect to
12 the Legislature's anticipated use of such funds
13 exclusively to incrementally roll back certain fee
14 increases previously enacted; providing an effective
15 date.

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17 WHEREAS, each day, nearly 4,000 children in the United
18 States try their first cigarettes, and an additional 1,000
19 children under 18 years of age become regular, daily smokers,
20 amounting to nearly 400,000 new underage smokers each year, and

21 WHEREAS, the addiction rate for smoking is higher than the
22 addiction rate for marijuana, alcohol, or cocaine, and symptoms
23 of serious nicotine addiction often occur just weeks or even
24 days after youth experimentation with smoking begins, and

25 WHEREAS, nearly 90 percent of all smokers begin while in
26 their teens or earlier, and approximately one-third of all youth
27 smokers will eventually die prematurely from smoking-related
28 disease, and

HB 1049

2012

29 WHEREAS, research consistently confirms that policies that
 30 raise cigarette prices reduce smoking, including underage
 31 smoking, and

32 WHEREAS, lower smoking prevalence resulting from higher
 33 cigarette prices reduces secondhand smoke exposure among
 34 nonsmokers, especially children and pregnant women, and

35 WHEREAS, this state has had proven success in reducing
 36 smoking rates through policies that increase the price of
 37 cigarettes, and

38 WHEREAS, since 2009, when a \$1 surcharge was imposed on
 39 each pack of cigarettes sold in this state, pack sales have
 40 fallen by approximately 27 percent; the percentage of high
 41 school students who smoke has declined by nearly one-fifth, from
 42 14.3 percent to 11.9 percent; and the percentage of middle
 43 school students who smoke has seen an even more precipitous
 44 decline of more than one-third, from 5.4 percent to 3.5 percent,
 45 and

46 WHEREAS, national economic research has shown that every
 47 10-percent increase in the real price of cigarettes reduces
 48 overall cigarette consumption by approximately 3 to 5 percent,
 49 reduces the number of young adult smokers by 3.5 percent, and
 50 reduces the number of children who smoke by 6 or 7 percent, and

51 WHEREAS, an additional tobacco surcharge would lead to even
 52 better public health, decrease the number of premature deaths
 53 caused by smoking, and prevent many youth from ever becoming
 54 smokers, NOW, THEREFORE,

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

HB 1049

2012

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Section 1. Short title.—This act may be cited as the
"Youth Smoking Prevention Act."

Section 2. Section 210.011, Florida Statutes, is amended
to read:

210.011 Cigarette surcharge levied; collection.—

(1) A surcharge, in addition to all other taxes of every
kind levied by law, is levied upon the sale, receipt, purchase,
possession, consumption, handling, distribution, and use of
cigarettes in this state, in the following amounts, except as
otherwise provided in subsections (2)-(5), for cigarettes of
standard dimensions:

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

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

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

(2) The descriptions of cigarettes contained in subsection
(1) are declared to be standard as to dimensions for the purpose
of levying a surcharge as provided in this section. If any
cigarette is received, purchased, possessed, sold, offered for
sale, given away, or used which is of a size other than those
standard dimensions, the cigarette is subject to a surcharge at
the rate of 4.2 cents on each cigarette.

(3) When cigarettes as described in paragraph (1)(a) are

85 | packed in varying quantities of 20 cigarettes or fewer, except
 86 | the manufacturer's free samples authorized under s. 210.04(9),
 87 | the following rates shall govern:

88 | (a) Packages containing 10 cigarettes or fewer require a
 89 | surcharge of \$1 ~~50 cents~~.

90 | (b) Packages containing more than 10 but not more than 20
 91 | cigarettes require a surcharge of \$2 ~~\$1~~.

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

96 | (a) Packages containing 10 cigarettes or fewer require a
 97 | surcharge of \$2 ~~\$1~~.

98 | (b) Packages containing more than 10 but not more than 20
 99 | cigarettes require a surcharge of \$3 ~~\$2~~.

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

104 | (a) Packages containing 10 cigarettes or fewer require a
 105 | surcharge of \$3 ~~\$2~~.

106 | (b) Packages containing more than 10 but not more than 20
 107 | cigarettes require a surcharge of \$5 ~~\$4~~.

108 | (6) This surcharge shall be paid by the dealer to the
 109 | division for deposit and distribution as hereinafter provided
 110 | upon the first sale or transaction within the state, whether
 111 | such sale or transfer is to the ultimate purchaser or consumer.
 112 | The seller or dealer shall collect the surcharge from the

HB 1049

2012

113 purchaser or consumer, and the purchaser or consumer shall pay
114 the surcharge to the seller. The seller or dealer is responsible
115 for the collection of the surcharge and payment of the surcharge
116 to the division. All surcharges are due not later than the 10th
117 day of the month following the calendar month in which they were
118 incurred, and thereafter shall bear interest at the rate of 1
119 percent per month. If the amount of surcharge due for a given
120 period is assessed without allocating it to any particular
121 month, the interest begins accruing on the date of the
122 assessment. Whenever cigarettes are shipped from outside the
123 state to anyone other than a distributing agent or wholesale
124 dealer, the person receiving the cigarettes is responsible for
125 the surcharge on the cigarettes and payment of the surcharge to
126 the division.

127 (7) It is the legislative intent that the surcharge on
128 cigarettes be uniform throughout the state.

129 (8) The surcharge levied under this section shall be
130 administered, collected, and enforced in the same manner as the
131 tax imposed under s. 210.02.

132 (9) (a) Except as provided in paragraph (b), revenue
133 produced from the surcharge levied under this section shall be
134 deposited into the Health Care Trust Fund within the Agency for
135 Health Care Administration.

136 (b)1. There is established within the Highway Safety
137 Operating Trust Fund within the Department of Highway Safety and
138 Motor Vehicles a fee rollback account, which must be maintained
139 as a separate account within the trust fund.

140 2. One dollar of revenue produced from the surcharge

HB 1049

2012

141 levied on each package of cigarettes described in paragraph
142 (3)(b) and subsections (4) and (5) and 50 cents from the
143 surcharge levied on each package of cigarettes described in
144 paragraph (3)(a) shall be deposited in the fee rollback account
145 to be held in reserve until the Florida Consensus Estimating
146 Conference provides formal written certification to the
147 Legislative Budget Commission that the conference's official
148 estimates project that adequate revenues exist in the fee
149 rollback account to support the incremental rollback of fee
150 increases enacted by the Legislature in chapter 2009-71, Laws of
151 Florida. Thereafter, the Legislative Budget Commission may
152 approve requests to transfer or direct the transfer of revenues
153 from the fee rollback account to the General Revenue Fund or
154 other appropriate trust funds, where such transferred funds
155 shall remain unallocated in anticipation of, and exclusively
156 for, use by the Legislature for the appropriation of funds to
157 incrementally roll back the fee increases enacted in chapter
158 2009-71, Laws of Florida.

159 Section 3. This act shall take effect July 1, 2012.