

1 A bill to be entitled

2 An act relating to nicotine dispensing devices;
3 amending s. 569.002, F.S.; defining the term "nicotine
4 dispensing devices"; amending s. 569.0075, F.S.;
5 prohibiting the gift of sample nicotine dispensing
6 devices to persons under 18 years of age; amending s.
7 569.101, F.S.; prohibiting the selling, delivering,
8 bartering, furnishing, or giving of nicotine
9 dispensing devices to persons under 18 years of age,
10 to which penalties apply; amending s. 569.11, F.S.;
11 prohibiting a person under 18 years of age from
12 possessing, purchasing, or misrepresenting his or her
13 age or military service to purchase nicotine
14 dispensing devices; providing civil penalties;
15 amending s. 569.14, F.S.; requiring certain signage
16 where a dealer sells nicotine dispensing devices;
17 amending s. 569.19, F.S.; requiring the Division of
18 Alcoholic Beverages and Tobacco of the Department of
19 Business and Professional Regulation to submit the
20 number of violations for selling nicotine dispensing
21 devices in its annual report; reenacting and amending
22 s. 322.056(2) and (3), F.S., relating to mandatory
23 driver license revocation or suspension for persons
24 younger than 18 years of age who commit certain
25 offenses, to incorporate the changes made by s.
26 569.11, F.S., in a reference thereto; making editorial

27 changes; providing an effective date.

28

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

30

31 Section 1. Subsections (3) through (7) of section 569.002,
 32 Florida Statutes, are renumbered as subsections (4) through (8),
 33 respectively, and a new subsection (3) is added to that section,
 34 to read:

35 569.002 Definitions.—As used in this chapter, the term:

36 (3) "Nicotine dispensing devices" means any product that
 37 can be used to deliver nicotine to an individual by inhaling
 38 vaporized nicotine from the product, including, but not limited
 39 to, an electronic cigarette, electronic cigar, electronic
 40 cigarillo, electronic pipe, or other similar device or product,
 41 and any replacement nicotine cartridge for the device or
 42 product.

43 Section 2. Section 569.0075, Florida Statutes, is amended
 44 to read:

45 569.0075 Gift of sample tobacco products or sample
 46 nicotine dispensing devices prohibited.—The gift of sample
 47 tobacco products or sample nicotine dispensing devices to any
 48 person under the age of 18 by an entity licensed or permitted
 49 under the provisions of chapter 210 or this chapter, or by an
 50 employee of such entity, is prohibited and is punishable as
 51 provided in s. 569.101.

52 Section 3. Subsections (1) and (3) of section 569.101,

53 Florida Statutes, are amended to read:

54 569.101 Selling, delivering, bartering, furnishing, or
 55 giving tobacco products or nicotine dispensing devices to
 56 persons under 18 years of age; criminal penalties; defense.—

57 (1) It is unlawful to sell, deliver, barter, furnish, or
 58 give, directly or indirectly, to any person who is under 18
 59 years of age, any tobacco product or nicotine dispensing device.

60 (3) A person charged with a violation of subsection (1)
 61 has a complete defense if, at the time the tobacco product or
 62 nicotine dispensing device was sold, delivered, bartered,
 63 furnished, or given:

64 (a) The buyer or recipient falsely evidenced that she or
 65 he was 18 years of age or older;

66 (b) The appearance of the buyer or recipient was such that
 67 a prudent person would believe the buyer or recipient to be 18
 68 years of age or older; and

69 (c) Such person carefully checked a driver ~~driver's~~
 70 license or an identification card issued by this state or
 71 another state of the United States, a passport, or a United
 72 States armed services identification card presented by the buyer
 73 or recipient and acted in good faith and in reliance upon the
 74 representation and appearance of the buyer or recipient in the
 75 belief that the buyer or recipient was 18 years of age or older.

76 Section 4. Subsections (1), (2), (5), and (6) of section
 77 569.11, Florida Statutes, are amended to read:

78 569.11 Possession, misrepresenting age or military service

79 | to purchase, and purchase of tobacco products or nicotine
 80 | dispensing devices by persons under 18 years of age prohibited;
 81 | penalties; jurisdiction; disposition of fines.—

82 | (1) It is unlawful for any person under 18 years of age to
 83 | knowingly possess any tobacco product or nicotine dispensing
 84 | device. Any person under 18 years of age who violates the
 85 | provisions of this subsection commits a noncriminal violation as
 86 | provided in s. 775.08(3), punishable by:

87 | (a) For a first violation, 16 hours of community service
 88 | or, instead of community service, a \$25 fine. In addition, the
 89 | person must attend a school-approved anti-tobacco and nicotine
 90 | program, if locally available;

91 | (b) For a second violation within 12 weeks of the first
 92 | violation, a \$25 fine; or

93 | (c) For a third or subsequent violation within 12 weeks of
 94 | the first violation, the court must direct the Department of
 95 | Highway Safety and Motor Vehicles to withhold issuance of or
 96 | suspend or revoke the person's driver ~~driver's~~ license or
 97 | driving privilege, as provided in s. 322.056.

98 |
 99 | Any second or subsequent violation not within the 12-week time
 100 | period after the first violation is punishable as provided for a
 101 | first violation.

102 | (2) It is unlawful for any person under 18 years of age to
 103 | misrepresent his or her age or military service for the purpose
 104 | of inducing a dealer or an agent or employee of the dealer to

105 | sell, give, barter, furnish, or deliver any tobacco product or
106 | nicotine dispensing device, or to purchase, or attempt to
107 | purchase, any tobacco product or nicotine dispensing device from
108 | a person or a vending machine. Any person under 18 years of age
109 | who violates a provision of this subsection commits a
110 | noncriminal violation as provided in s. 775.08(3), punishable
111 | by:

112 | (a) For a first violation, 16 hours of community service
113 | or, instead of community service, a \$25 fine and, in addition,
114 | the person must attend a school-approved anti-tobacco and
115 | nicotine program, if available;

116 | (b) For a second violation within 12 weeks of the first
117 | violation, a \$25 fine; or

118 | (c) For a third or subsequent violation within 12 weeks of
119 | the first violation, the court must direct the Department of
120 | Highway Safety and Motor Vehicles to withhold issuance of or
121 | suspend or revoke the person's driver ~~driver's~~ license or
122 | driving privilege, as provided in s. 322.056.

123 |

124 | Any second or subsequent violation not within the 12-week time
125 | period after the first violation is punishable as provided for a
126 | first violation.

127 | (5) (a) If a person under 18 years of age is found by the
128 | court to have committed a noncriminal violation under this
129 | section and that person has failed to complete community
130 | service, pay the fine as required by paragraph (1) (a) or

131 paragraph (2) (a), or attend a school-approved anti-tobacco
132 program, if locally available, the court must direct the
133 Department of Highway Safety and Motor Vehicles to withhold
134 issuance of or suspend the driver ~~driver's~~ license or driving
135 privilege of that person for ~~a period of~~ 30 consecutive days.

136 (b) If a person under 18 years of age is found by the
137 court to have committed a noncriminal violation under this
138 section and that person has failed to pay the applicable fine as
139 required by paragraph (1) (b) or paragraph (2) (b), the court must
140 direct the Department of Highway Safety and Motor Vehicles to
141 withhold issuance of or suspend the driver ~~driver's~~ license or
142 driving privilege of that person for ~~a period of~~ 45 consecutive
143 days.

144 (6) Eighty percent of all civil penalties received by a
145 county court pursuant to this section shall be remitted by the
146 clerk of the court to the Department of Revenue for transfer to
147 the Department of Education to provide for teacher training and
148 for research and evaluation to reduce and prevent the use of
149 tobacco products or nicotine dispensing devices by children. The
150 remaining 20 percent of civil penalties received by a county
151 court pursuant to this section shall remain with the clerk of
152 the county court to cover administrative costs.

153 Section 5. Subsections (1), (2), and (3) of section
154 569.14, Florida Statutes, are amended to read:

155 569.14 Posting of a sign stating that the sale of tobacco
156 products or nicotine dispensing devices to persons under 18

157 | years of age is unlawful; enforcement; penalty.-

158 | (1) Any dealer that sells tobacco products or nicotine
 159 | dispensing devices shall post a clear and conspicuous sign in
 160 | each place of business where such products are sold which
 161 | substantially states the following:

162 |
 163 | THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO
 164 | PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE
 165 | IS REQUIRED FOR PURCHASE.

166 |
 167 | (2) The division shall make available to dealers of
 168 | tobacco products or nicotine dispensing devices signs that meet
 169 | the requirements of subsection (1).

170 | (3) Any dealer that sells tobacco products or nicotine
 171 | dispensing devices shall provide at the checkout counter in a
 172 | location clearly visible to the dealer, the dealer's agent or
 173 | employee, instructional material in a calendar format or similar
 174 | format to assist in determining whether a person is of legal age
 175 | to purchase tobacco products or nicotine dispensing devices.
 176 | This point of sale material must contain substantially the
 177 | following language:

178 |
 179 | IF YOU WERE NOT BORN BEFORE THIS DATE

180 | (insert date and applicable year)

181 | YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.

182 |

183 Upon approval by the division, in lieu of a calendar a dealer
184 may use card readers, scanners, or other electronic or automated
185 systems that can verify whether a person is of legal age to
186 purchase tobacco products or nicotine dispensing devices.

187 Failure to comply with the provisions contained in this
188 subsection shall result in imposition of administrative
189 penalties as provided in s. 569.006.

190 Section 6. Subsection (3) of section 569.19, Florida
191 Statutes, is amended to read:

192 569.19 Annual report.—The division shall report annually
193 with written findings to the Legislature and the Governor by
194 December 31, on the progress of implementing the enforcement
195 provisions of this chapter. This must include, but is not
196 limited to:

197 (3) The number of violations for selling tobacco products
198 or nicotine dispensing devices to persons under age 18, and the
199 results of administrative hearings on the above and related
200 issues.

201 Section 7. For the purpose of incorporating the amendments
202 made by this act to section 569.11, Florida Statutes, in a
203 reference thereto, subsections (2) and (3) of section 322.056,
204 Florida Statutes, are reenacted and amended to read:

205 322.056 Mandatory revocation or suspension of, or delay of
206 eligibility for, driver ~~driver's~~ license for persons under age
207 18 found guilty of certain alcohol, drug, or tobacco offenses;
208 prohibition.—

209 (2) If a person under 18 years of age is found by the
 210 court to have committed a noncriminal violation under s. 569.11
 211 and that person has failed to comply with the procedures
 212 established in that section by failing to fulfill community
 213 service requirements, failing to pay the applicable fine, or
 214 failing to attend a locally available school-approved anti-
 215 tobacco program, and:

216 (a) The person is eligible by reason of age for a driver
 217 ~~driver's~~ license or driving privilege, the court shall direct
 218 the department to revoke or to withhold issuance of his or her
 219 driver ~~driver's~~ license or driving privilege as follows:

- 220 1. For the first violation, for 30 days.
- 221 2. For the second violation within 12 weeks of the first
 222 violation, for 45 days.

223 (b) The person's driver ~~driver's~~ license or driving
 224 privilege is under suspension or revocation for any reason, the
 225 court shall direct the department to extend the period of
 226 suspension or revocation by an additional period as follows:

- 227 1. For the first violation, for 30 days.
- 228 2. For the second violation within 12 weeks of the first
 229 violation, for 45 days.

230 (c) The person is ineligible by reason of age for a driver
 231 ~~driver's~~ license or driving privilege, the court shall direct
 232 the department to withhold issuance of his or her driver
 233 ~~driver's~~ license or driving privilege as follows:

- 234 1. For the first violation, for 30 days.

235 2. For the second violation within 12 weeks of the first
236 violation, for 45 days.

237

238 Any second violation of s. 569.11 not within the 12-week period
239 after the first violation will be treated as a first violation
240 and in the same manner as provided in this subsection.

241 (3) If a person under 18 years of age is found by the
242 court to have committed a third violation of s. 569.11 within 12
243 weeks of the first violation, the court must direct the
244 Department of Highway Safety and Motor Vehicles to suspend or
245 withhold issuance of his or her driver ~~driver's~~ license or
246 driving privilege for 60 consecutive days. Any third violation
247 of s. 569.11 not within the 12-week period after the first
248 violation will be treated as a first violation and in the same
249 manner as provided in subsection (2).

250 Section 8. This act shall take effect July 1, 2014.