

By the Committee on Regulated Industries; and Senators Benacquisto, Latvala, Sobel, and Flores

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1 A bill to be entitled
2 An act relating to nicotine dispensing devices;
3 amending s. 569.002, F.S.; providing a definition;
4 amending s. 569.0075, F.S.; prohibiting the gift of
5 sample nicotine dispensing devices to persons under 18
6 years of age; amending s. 569.101, F.S.; prohibiting
7 the selling, delivering, bartering, furnishing, or
8 giving of nicotine dispensing devices to persons under
9 18 years of age, to which penalties apply; amending s.
10 569.11, F.S.; prohibiting persons under 18 years of
11 age from possessing, purchasing, or misrepresenting
12 their age or military service to purchase nicotine
13 dispensing devices; providing civil penalties;
14 amending s. 569.14, F.S.; requiring certain signage
15 where a dealer sells nicotine dispensing devices;
16 amending s. 569.19, F.S.; requiring the Division of
17 Alcoholic Beverages and Tobacco of the Department of
18 Business and Professional Regulation to submit the
19 number of violations for selling nicotine dispensing
20 devices in its annual report; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (8) is added to section 569.002,
26 Florida Statutes, to read:

27 569.002 Definitions.—As used in this chapter, the term:
28 (8) "Nicotine dispensing devices" mean any product that can
29 be used to deliver nicotine to an individual by inhaling

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30 vaporized nicotine from the product, including, but not limited
31 to, an electronic cigarette, electronic cigar, electronic
32 cigarillo, electronic pipe, or other similar device or product
33 and any replacement nicotine cartridge for the device or
34 product.

35 Section 2. Section 569.0075, Florida Statutes, is amended
36 to read:

37 569.0075 Gift of sample tobacco products or sample nicotine
38 dispensing devices prohibited.—The gift of sample tobacco
39 products or sample nicotine dispensing devices to any person
40 under the age of 18 by an entity licensed or permitted under the
41 provisions of chapter 210 or this chapter, or by an employee of
42 such entity, is prohibited and is punishable as provided in s.
43 569.101.

44 Section 3. Subsections (1) and (3) of section 569.101,
45 Florida Statutes, are amended to read:

46 569.101 Selling, delivering, bartering, furnishing, or
47 giving tobacco products or nicotine dispensing devices to
48 persons under 18 years of age; criminal penalties; defense.—

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

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

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

58 (b) The appearance of the buyer or recipient was such that

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59 a prudent person would believe the buyer or recipient to be 18
60 years of age or older; and

61 (c) Such person carefully checked a driver's license or an
62 identification card issued by this state or another state of the
63 United States, a passport, or a United States armed services
64 identification card presented by the buyer or recipient and
65 acted in good faith and in reliance upon the representation and
66 appearance of the buyer or recipient in the belief that the
67 buyer or recipient was 18 years of age or older.

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

70 569.11 Possession, misrepresenting age or military service
71 to purchase, and purchase of tobacco products or nicotine
72 dispensing devices by persons under 18 years of age prohibited;
73 penalties; jurisdiction; disposition of fines.—

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

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

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

85 (c) For a third or subsequent violation within 12 weeks of
86 the first violation, the court must direct the Department of
87 Highway Safety and Motor Vehicles to withhold issuance of or

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88 suspend or revoke the person's driver's license or driving
89 privilege, as provided in s. 322.056.

90

91 Any second or subsequent violation not within the 12-week time
92 period after the first violation is punishable as provided for a
93 first violation.

94 (2) It is unlawful for any person under 18 years of age to
95 misrepresent his or her age or military service for the purpose
96 of inducing a dealer or an agent or employee of the dealer to
97 sell, give, barter, furnish, or deliver any tobacco product or
98 nicotine dispensing device, or to purchase, or attempt to
99 purchase, any tobacco product or nicotine dispensing device from
100 a person or a vending machine. Any person under 18 years of age
101 who violates a provision of this subsection commits a
102 noncriminal violation as provided in s. 775.08(3), punishable
103 by:

104 (a) For a first violation, 16 hours of community service
105 or, instead of community service, a \$25 fine and, in addition,
106 the person must attend a school-approved anti-tobacco and
107 nicotine program, if available;

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

110 (c) For a third or subsequent violation within 12 weeks of
111 the first violation, the court must direct the Department of
112 Highway Safety and Motor Vehicles to withhold issuance of or
113 suspend or revoke the person's driver's license or driving
114 privilege, as provided in s. 322.056.

115

116 Any second or subsequent violation not within the 12-week time

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117 period after the first violation is punishable as provided for a
118 first violation.

119 (6) Eighty percent of all civil penalties received by a
120 county court pursuant to this section shall be remitted by the
121 clerk of the court to the Department of Revenue for transfer to
122 the Department of Education to provide for teacher training and
123 for research and evaluation to reduce and prevent the use of
124 tobacco products or nicotine dispensing devices by children. The
125 remaining 20 percent of civil penalties received by a county
126 court pursuant to this section shall remain with the clerk of
127 the county court to cover administrative costs.

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

130 569.14 Posting of a sign stating that the sale of tobacco
131 products or nicotine dispensing devices to persons under 18
132 years of age is unlawful; enforcement; penalty.-

133 (1) Any dealer that sells tobacco products or nicotine
134 dispensing devices shall post a clear and conspicuous sign in
135 each place of business where such products are sold which
136 substantially states the following:

137
138 THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO
139 PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE
140 IS REQUIRED FOR PURCHASE.

141
142 (2) The division shall make available to dealers of tobacco
143 products or nicotine dispensing devices signs that meet the
144 requirements of subsection (1).

145 (3) Any dealer that sells tobacco products or nicotine

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146 dispensing devices shall provide at the checkout counter in a
147 location clearly visible to the dealer, the dealer's agent or
148 employee, instructional material in a calendar format or similar
149 format to assist in determining whether a person is of legal age
150 to purchase tobacco products or nicotine dispensing devices.
151 This point of sale material must contain substantially the
152 following language:

153
154 IF YOU WERE NOT BORN BEFORE THIS DATE
155 (insert date and applicable year)
156 YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.

157
158 Upon approval by the division, in lieu of a calendar a dealer
159 may use card readers, scanners, or other electronic or automated
160 systems that can verify whether a person is of legal age to
161 purchase tobacco products or nicotine dispensing devices.
162 Failure to comply with the provisions contained in this
163 subsection shall result in imposition of administrative
164 penalties as provided in s. 569.006.

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

167 569.19 Annual report.—The division shall report annually
168 with written findings to the Legislature and the Governor by
169 December 31, on the progress of implementing the enforcement
170 provisions of this chapter. This must include, but is not
171 limited to:

172 (3) The number of violations for selling tobacco products
173 or nicotine dispensing devices to persons under age 18, and the
174 results of administrative hearings on the above and related

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175 issues.

176 Section 7. This act shall take effect July 1, 2014.