

By Senator Hays

20-00980-12

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1 A bill to be entitled
2 An act relating to tobacco products; creating s.
3 569.0076, F.S.; authorizing credit for the sale of
4 tobacco products to be extended to a retail dealer
5 under specified conditions; providing for the
6 suspension of the sale of tobacco products to retail
7 dealers delinquent in their credit payments; providing
8 procedures for challenging such suspension; providing
9 notice requirements; providing an exception to such
10 suspension for retail dealers purchasing tobacco
11 products with cash; providing an effective date.

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

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15 Section 1. Section 569.0076, Florida Statutes, is created
16 to read:

17 569.0076 Sales credit; delinquent dealers.-

18 (1) Credit for the sale of tobacco products may be extended
19 to any dealer up to, but not including, the 10th day after the
20 calendar week in which the sale was made.

21 (2) If payment for sales to a dealer is not made by the
22 period specified in subsection (1), the distributor who made the
23 sale shall, within 3 days, notify the division in writing of
24 such nonpayment. The division, upon receipt of such notice,
25 shall, after the proceedings provided in subsection (3), declare
26 in writing to the dealer and to all manufacturers and
27 distributors within the state that all further sales by credit
28 to the dealer are prohibited until the division certifies in
29 writing that the dealer has fully paid for all tobacco products

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30 previously purchased. However, if a distributor receives payment
31 within the 3-day period after the 10th day after the calendar
32 week in which the sale was made, the distributor, if
33 notification to the division has not already been made, is not
34 required to notify the division. Payments made within the 3-day
35 period do not constitute a violation of this section.

36 (3) Before prohibiting sales by credit to a dealer under
37 this section, the division shall, within 2 days after receipt of
38 the notice of nonpayment under subsection (2), give written
39 notice to the dealer by mail of the receipt by the division of
40 the notice of nonpayment and the dealer shall be directed to
41 make payment or, upon failure to do so, show cause before the
42 division why further sales to the dealer should not be
43 prohibited. Cause may be made by showing payment, failure of
44 consideration, or any other defense that would be considered
45 sufficient in a common-law action. The dealer shall have 5 days
46 after receipt of such notice to show such cause and may demand a
47 hearing, provided he or she does so in writing delivered to the
48 division either in person or by mail within the 5-day period. If
49 a demand for hearing is not made, the division shall declare in
50 writing to the dealer and to all manufacturers and distributors
51 within the state that all further sales by credit to the dealer
52 are prohibited until the division certifies in writing that the
53 dealer has fully paid for all tobacco products previously
54 purchased. If such prohibition on sales is ordered by the
55 division, the dealer may apply for a review of the decision by
56 the Department of Business and Professional Regulation within 5
57 days after receiving notice of prohibition on sales. If the
58 application for the review is timely filed, the prohibition on

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59 sales shall be suspended until final disposition of the review
60 by the department.

61 (4) Upon receipt by the division from the distributor of
62 the notice of nonpayment under subsection (2), the division
63 shall notify the delinquent dealer and all distributors in the
64 state that no further purchases by or sales of tobacco products
65 to the dealer, except for cash, shall be made until good cause
66 is shown by the dealer as provided in this section. Tobacco
67 products may not be purchased by the dealer or sold to the
68 dealer by any distributor, except for cash, from and after such
69 notification by the division and until cause is shown pursuant
70 to subsection (3). If cause is not shown, all further sales, for
71 cash or credit, are prohibited after such declaration in writing
72 by the division is sent to such dealer and distributors and
73 until all delinquent accounts have been paid.

74 Section 2. This act shall take effect July 1, 2012.