

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Business & Professional
 2 Regulation Subcommittee
 3 Representative Renuart offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

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

9 569.002 Definitions.—As used in this chapter, the term:

10 (8) "Nicotine dispensing devices" mean any product that
 11 can be used to deliver nicotine to an individual by inhaling
 12 vaporized nicotine from the product, including, but not limited
 13 to, an electronic cigarette, electronic cigar, electronic
 14 cigarillo, electronic pipe, or other similar device or product
 15 and any replacement nicotine cartridge for the device or
 16 product.

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17 Section 2. Section 569.0075, Florida Statutes, is amended
18 to read:

19 569.0075 Gift of sample tobacco products or sample
20 nicotine dispensing devices prohibited.—The gift of sample
21 tobacco products or sample nicotine dispensing devices to any
22 person under the age of 18 by an entity licensed or permitted
23 under the provisions of chapter 210 or this chapter, or by an
24 employee of such entity, is prohibited and is punishable as
25 provided in s. 569.101.

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

28 569.101 Selling, delivering, bartering, furnishing, or
29 giving tobacco products or nicotine dispensing devices to
30 persons under 18 years of age; criminal penalties; defense.—

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

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

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

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

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43 (c) Such person carefully checked a driver ~~driver's~~
44 license or an identification card issued by this state or
45 another state of the United States, a passport, or a United
46 States armed services identification card presented by the buyer
47 or recipient and acted in good faith and in reliance upon the
48 representation and appearance of the buyer or recipient in the
49 belief that the buyer or recipient was 18 years of age or older.

50 Section 4. Subsections (1), (2), (5), and (6) of section
51 569.11, Florida Statutes, are amended to read:

52 569.11 Possession, misrepresenting age or military service
53 to purchase, and purchase of tobacco products or nicotine
54 dispensing devices by persons under 18 years of age prohibited;
55 penalties; jurisdiction; disposition of fines.—

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

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

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

67 (c) For a third or subsequent violation within 12 weeks of
68 the first violation, the court must direct the Department of

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69 Highway Safety and Motor Vehicles to withhold issuance of or
70 suspend or revoke the person's driver ~~driver's~~ license or
71 driving privilege, as provided in s. 322.056.

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73 Any second or subsequent violation not within the 12-week time
74 period after the first violation is punishable as provided for a
75 first violation.

76 (2) It is unlawful for any person under 18 years of age to
77 misrepresent his or her age or military service for the purpose
78 of inducing a dealer or an agent or employee of the dealer to
79 sell, give, barter, furnish, or deliver any tobacco product or
80 nicotine dispensing device, or to purchase, or attempt to
81 purchase, any tobacco product or nicotine dispensing device from
82 a person or a vending machine. Any person under 18 years of age
83 who violates a provision of this subsection commits a
84 noncriminal violation as provided in s. 775.08(3), punishable
85 by:

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

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

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

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95 suspend or revoke the person's driver ~~driver's~~ license or
96 driving privilege, as provided in s. 322.056.

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

101 (5) (a) If a person under 18 years of age is found by the
102 court to have committed a noncriminal violation under this
103 section and that person has failed to complete community
104 service, pay the fine as required by paragraph (1) (a) or
105 paragraph (2) (a), or attend a school-approved anti-tobacco
106 program, if locally available, the court must direct the
107 Department of Highway Safety and Motor Vehicles to withhold
108 issuance of or suspend the driver ~~driver's~~ license or driving
109 privilege of that person for ~~a period of~~ 30 consecutive days.

110 (b) If a person under 18 years of age is found by the
111 court to have committed a noncriminal violation under this
112 section and that person has failed to pay the applicable fine as
113 required by paragraph (1) (b) or paragraph (2) (b), the court must
114 direct the Department of Highway Safety and Motor Vehicles to
115 withhold issuance of or suspend the driver ~~driver's~~ license or
116 driving privilege of that person for ~~a period of~~ 45 consecutive
117 days.

118 (6) Eighty percent of all civil penalties received by a
119 county court pursuant to this section shall be remitted by the
120 clerk of the court to the Department of Revenue for transfer to

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

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

129 569.14 Posting of a sign stating that the sale of tobacco
130 products or nicotine dispensing devices to persons under 18
131 years of age is unlawful; enforcement; penalty.—

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

136
137 THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO
138 PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE
139 IS REQUIRED FOR PURCHASE.

140
141 (2) The division shall make available to dealers of
142 tobacco products or nicotine dispensing devices signs that meet
143 the requirements of subsection (1).

144 (3) Any dealer that sells tobacco products or nicotine
145 dispensing devices shall provide at the checkout counter in a
146 location clearly visible to the dealer, the dealer's agent or

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147 employee, instructional material in a calendar format or similar
148 format to assist in determining whether a person is of legal age
149 to purchase tobacco products or nicotine dispensing devices.
150 This point of sale material must contain substantially the
151 following language:

152
153 IF YOU WERE NOT BORN BEFORE THIS DATE

154 (insert date and applicable year)

155 YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.
156

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

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

166 569.19 Annual report.—The division shall report annually
167 with written findings to the Legislature and the Governor by
168 December 31, on the progress of implementing the enforcement
169 provisions of this chapter. This must include, but is not
170 limited to:

171 (3) The number of violations for selling tobacco products
172 or nicotine dispensing devices to persons under age 18, and the

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173 results of administrative hearings on the above and related
174 issues.

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

179 322.056 Mandatory revocation or suspension of, or delay of
180 eligibility for, driver ~~driver's~~ license for persons under age
181 18 found guilty of certain alcohol, drug, or tobacco offenses;
182 prohibition.-

183 (2) If a person under 18 years of age is found by the
184 court to have committed a noncriminal violation under s. 569.11
185 and that person has failed to comply with the procedures
186 established in that section by failing to fulfill community
187 service requirements, failing to pay the applicable fine, or
188 failing to attend a locally available school-approved anti-
189 tobacco program, and:

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

194 1. For the first violation, for 30 days.

195 2. For the second violation within 12 weeks of the first
196 violation, for 45 days.

197 (b) The person's driver ~~driver's~~ license or driving
198 privilege is under suspension or revocation for any reason, the

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199 court shall direct the department to extend the period of
200 suspension or revocation by an additional period as follows:

201 1. For the first violation, for 30 days.

202 2. For the second violation within 12 weeks of the first
203 violation, for 45 days.

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

208 1. For the first violation, for 30 days.

209 2. For the second violation within 12 weeks of the first
210 violation, for 45 days.

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

215 (3) If a person under 18 years of age is found by the
216 court to have committed a third violation of s. 569.11 within 12
217 weeks of the first violation, the court must direct the
218 Department of Highway Safety and Motor Vehicles to suspend or
219 withhold issuance of his or her driver ~~driver's~~ license or
220 driving privilege for 60 consecutive days. Any third violation
221 of s. 569.11 not within the 12-week period after the first
222 violation will be treated as a first violation and in the same
223 manner as provided in subsection (2).

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

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T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to nicotine dispensing devices;
amending s. 569.002, F.S.; providing a definition;
amending s. 569.0075, F.S.; prohibiting the gift of
sample nicotine dispensing devices to persons under 18
years of age; amending s. 569.101, F.S.; prohibiting
the selling, delivering, bartering, furnishing, or
giving of nicotine dispensing devices to persons under
18 years of age, to which penalties apply; amending s.
569.11, F.S.; prohibiting persons under 18 years of
age from possessing, purchasing, or misrepresenting
their age or military service to purchase nicotine
dispensing devices; providing civil penalties;
amending s. 569.14, F.S.; requiring certain signage
where a dealer sells nicotine dispensing devices;
amending s. 569.19, F.S.; requiring the Division of
Alcoholic Beverages and Tobacco of the Department of
Business and Professional Regulation to submit the
number of violations for selling nicotine dispensing
devices in its annual report; reenacting and amending
s. 322.056(2) and (3), F.S., relating to mandatory

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 169 (2014)

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251 driver license revocation or suspension for persons
252 younger than 18 years of age who commit certain
253 offenses, to incorporate the amendments to s. 569.11,
254 F.S., in a reference thereto; making editorial
255 changes; providing an effective date.