



755288

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2014	.	
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The Committee on Appropriations (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

569.002 Definitions.—As used in this chapter, the term:
(8) "Nicotine dispensing devices" means any product that
can be used to deliver nicotine to an individual by inhaling
vaporized nicotine from the product, including, but not limited



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11 to, an electronic cigarette, electronic cigar, electronic
12 cigarillo, electronic pipe, or other similar device or product
13 and any replacement nicotine cartridge for the device or
14 product.

15 Section 2. Section 569.0075, Florida Statutes, is amended
16 to read:

17 569.0075 Gift of sample tobacco products or sample nicotine
18 dispensing devices prohibited.—The gift of sample tobacco
19 products or sample nicotine dispensing devices to any person
20 under the age of 18 by an entity licensed or permitted under the
21 provisions of chapter 210 or this chapter, or by an employee of
22 such entity, is prohibited and is punishable as provided in s.
23 569.101.

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

26 569.101 Selling, delivering, bartering, furnishing, or
27 giving tobacco products or nicotine dispensing devices to
28 persons under 18 years of age; criminal penalties; defense.—

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

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

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

38 (b) The appearance of the buyer or recipient was such that
39 a prudent person would believe the buyer or recipient to be 18



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40 years of age or older; and

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

48 Section 4. Subsections (1), (2), (5), and (6) of section
49 569.11, Florida Statutes, are amended to read:

50 569.11 Possession, misrepresenting age or military service
51 to purchase, and purchase of tobacco products or nicotine
52 dispensing devices by persons under 18 years of age prohibited;
53 penalties; jurisdiction; disposition of fines.—

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

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

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

65 (c) For a third or subsequent violation within 12 weeks of
66 the first violation, the court must direct the Department of
67 Highway Safety and Motor Vehicles to withhold issuance of or
68 suspend or revoke the person's driver ~~driver's~~ license or



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69 driving privilege, as provided in s. 322.056.

70
71 Any second or subsequent violation not within the 12-week time
72 period after the first violation is punishable as provided for a
73 first violation.

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

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

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

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

95
96 Any second or subsequent violation not within the 12-week time
97 period after the first violation is punishable as provided for a



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98 first violation.

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

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

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

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

126 569.14 Posting of a sign stating that the sale of tobacco



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127 products or nicotine dispensing devices to persons under 18
128 years of age is unlawful; enforcement; penalty.-

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

133

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

137

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

141 (3) Any dealer that sells tobacco products or nicotine
142 dispensing devices shall provide at the checkout counter in a
143 location clearly visible to the dealer, the dealer's agent or
144 employee, instructional material in a calendar format or similar
145 format to assist in determining whether a person is of legal age
146 to purchase tobacco products or nicotine dispensing devices.
147 This point of sale material must contain substantially the
148 following language:

149

IF YOU WERE NOT BORN BEFORE THIS DATE

151

(insert date and applicable year)

152

YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.

153

154 Upon approval by the division, in lieu of a calendar a dealer
155 may use card readers, scanners, or other electronic or automated



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156 systems that can verify whether a person is of legal age to
157 purchase tobacco products or nicotine dispensing devices.
158 Failure to comply with the provisions contained in this
159 subsection shall result in imposition of administrative
160 penalties as provided in s. 569.006.

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

163 569.19 Annual report.—The division shall report annually
164 with written findings to the Legislature and the Governor by
165 December 31, on the progress of implementing the enforcement
166 provisions of this chapter. This must include, but is not
167 limited to:

168 (3) The number of violations for selling tobacco products
169 or nicotine dispensing devices to persons under age 18, and the
170 results of administrative hearings on the above and related
171 issues.

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

176 322.056 Mandatory revocation or suspension of, or delay of
177 eligibility for, driver ~~driver's~~ license for persons under age
178 18 found guilty of certain alcohol, drug, or tobacco offenses;
179 prohibition.—

180 (2) If a person under 18 years of age is found by the court
181 to have committed a noncriminal violation under s. 569.11 and
182 that person has failed to comply with the procedures established
183 in that section by failing to fulfill community service
184 requirements, failing to pay the applicable fine, or failing to



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185 attend a locally available school-approved anti-tobacco program,
186 and:

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

- 191 1. For the first violation, for 30 days.
- 192 2. For the second violation within 12 weeks of the first
193 violation, for 45 days.

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

- 198 1. For the first violation, for 30 days.
- 199 2. For the second violation within 12 weeks of the first
200 violation, for 45 days.

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

- 205 1. For the first violation, for 30 days.
- 206 2. For the second violation within 12 weeks of the first
207 violation, for 45 days.

208
209 Any second violation of s. 569.11 not within the 12-week period
210 after the first violation will be treated as a first violation
211 and in the same manner as provided in this subsection.

212 (3) If a person under 18 years of age is found by the court
213 to have committed a third violation of s. 569.11 within 12 weeks



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214 of the first violation, the court must direct the Department of
215 Highway Safety and Motor Vehicles to suspend or withhold
216 issuance of his or her driver ~~driver's~~ license or driving
217 privilege for 60 consecutive days. Any third violation of s.
218 569.11 not within the 12-week period after the first violation
219 will be treated as a first violation and in the same manner as
220 provided in subsection (2).

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

222

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

224 And the title is amended as follows:

225 Delete everything before the enacting clause
226 and insert:

227 A bill to be entitled
228 An act relating to nicotine dispensing devices;
229 amending s. 569.002, F.S.; providing a definition;
230 amending s. 569.0075, F.S.; prohibiting the gift of
231 sample nicotine dispensing devices to persons under 18
232 years of age; amending s. 569.101, F.S.; prohibiting
233 the selling, delivering, bartering, furnishing, or
234 giving of nicotine dispensing devices to persons under
235 18 years of age, to which penalties apply; amending s.
236 569.11, F.S.; prohibiting persons under 18 years of
237 age from possessing, purchasing, or misrepresenting
238 their age or military service to purchase nicotine
239 dispensing devices; providing civil penalties;
240 amending s. 569.14, F.S.; requiring certain signage
241 where a dealer sells nicotine dispensing devices;
242 amending s. 569.19, F.S.; requiring the Division of



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243 Alcoholic Beverages and Tobacco of the Department of
244 Business and Professional Regulation to submit the
245 number of violations for selling nicotine dispensing
246 devices in its annual report; reenacting and amending
247 s. 322.056(2) and (3), F.S., relating to mandatory
248 driver license revocation or suspension for persons
249 younger than 18 years of age who commit certain
250 offenses, to incorporate the amendments to s. 569.11,
251 F.S., in a reference thereto; making editorial
252 changes; providing an effective date.