



961606

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/08/2013	.	
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The Committee on Regulated Industries (Galvano) 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" mean 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's license or an
42 identification card issued by this state or another state of the
43 United States, a passport, or a United States armed services
44 identification card presented by the buyer or recipient and
45 acted in good faith and in reliance upon the representation and
46 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), and (6) of section 569.11,
49 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's license or driving



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69 privilege, as provided in s. 322.056.

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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's license or driving
94 privilege, as provided in s. 322.056.

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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 (6) Eighty percent of all civil penalties received by a
100 county court pursuant to this section shall be remitted by the
101 clerk of the court to the Department of Revenue for transfer to
102 the Department of Education to provide for teacher training and
103 for research and evaluation to reduce and prevent the use of
104 tobacco products or nicotine dispensing devices by children. The
105 remaining 20 percent of civil penalties received by a county
106 court pursuant to this section shall remain with the clerk of
107 the county court to cover administrative costs.

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

110 569.14 Posting of a sign stating that the sale of tobacco
111 products or nicotine dispensing devices to persons under 18
112 years of age is unlawful; enforcement; penalty.—

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

117 THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO
118 PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE
119 IS REQUIRED FOR PURCHASE.

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

123 (3) Any dealer that sells tobacco products or nicotine
124 dispensing devices shall provide at the checkout counter in a
125 location clearly visible to the dealer, the dealer's agent or
126 employee, instructional material in a calendar format or similar



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127 format to assist in determining whether a person is of legal age
128 to purchase tobacco products or nicotine dispensing devices.
129 This point of sale material must contain substantially the
130 following language:

131 IF YOU WERE NOT BORN BEFORE THIS DATE

132 (insert date and applicable year)

133 YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.

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

138 Failure to comply with the provisions contained in this
139 subsection shall result in imposition of administrative
140 penalties as provided in s. 569.006.

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

143 569.19 Annual report.—The division shall report annually
144 with written findings to the Legislature and the Governor by
145 December 31, on the progress of implementing the enforcement
146 provisions of this chapter. This must include, but is not
147 limited to:

148 (3) The number of violations for selling tobacco products
149 or nicotine dispensing devices to persons under age 18, and the
150 results of administrative hearings on the above and related
151 issues.

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

153
154 ===== T I T L E A M E N D M E N T =====

155 And the title is amended as follows:



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156 Delete everything before the enacting clause
157 and insert:

158 A bill to be entitled
159 An act relating to nicotine dispensing devices;
160 amending s. 569.002, F.S.; providing a definition;
161 amending s. 569.0075, F.S.; prohibiting the gift of
162 sample nicotine dispensing devices to persons under 18
163 years of age; amending s. 569.101, F.S.; prohibiting
164 the selling, delivering, bartering, furnishing, or
165 giving of nicotine dispensing devices to persons under
166 18 years of age, to which penalties apply; amending s.
167 569.11, F.S.; prohibiting persons under 18 years of
168 age from possessing, purchasing, or misrepresenting
169 their age or military service to purchase nicotine
170 dispensing devices; providing civil penalties;
171 amending s. 569.14, F.S.; requiring certain signage
172 where a dealer sells nicotine dispensing devices;
173 amending s. 569.19, F.S.; requiring the Division of
174 Alcoholic Beverages and Tobacco of the Department of
175 Business and Professional Regulation to submit the
176 number of violations for selling nicotine dispensing
177 devices in its annual report; providing an effective
178 date.