

2014224e1

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; reenacting and amending
21 s. 322.056(2) and (3), F.S., relating to mandatory
22 driver license revocation or suspension for persons
23 younger than 18 years of age who commit certain
24 offenses, to incorporate the amendments to s. 569.11,
25 F.S., in a reference thereto; making editorial
26 changes; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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2014224e1

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

32 569.002 Definitions.—As used in this chapter, the term:

33 (8) "Nicotine dispensing devices" means any product that
34 can be used to deliver nicotine to an individual by inhaling
35 vaporized nicotine from the product, including, but not limited
36 to, an electronic cigarette, electronic cigar, electronic
37 cigarillo, electronic pipe, or other similar device or product
38 and any replacement nicotine cartridge, liquid nicotine vial, or
39 other container used to refill nicotine for the device or
40 product.

41 Section 2. Section 569.0075, Florida Statutes, is amended
42 to read:

43 569.0075 Gift of sample tobacco products or sample nicotine
44 dispensing devices prohibited.—The gift of sample tobacco
45 products or sample nicotine dispensing devices to any person
46 under the age of 18 by an entity licensed or permitted under the
47 provisions of chapter 210 or this chapter, or by an employee of
48 such entity, is prohibited and is punishable as provided in s.
49 569.101.

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

52 569.101 Selling, delivering, bartering, furnishing, or
53 giving tobacco products or nicotine dispensing devices to
54 persons under 18 years of age; criminal penalties; defense.—

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

58 (3) A person charged with a violation of subsection (1) has

2014224e1

59 a complete defense if, at the time the tobacco product or
60 nicotine dispensing device was sold, delivered, bartered,
61 furnished, or given:

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

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

67 (c) Such person carefully checked a driver ~~driver's~~ license
68 or an identification card issued by this state or another state
69 of the United States, a passport, or a United States armed
70 services identification card presented by the buyer or recipient
71 and acted in good faith and in reliance upon the representation
72 and appearance of the buyer or recipient in the belief that the
73 buyer or recipient was 18 years of age or older.

74 Section 4. Subsections (1), (2), (5), and (6) of section
75 569.11, Florida Statutes, are amended to read:

76 569.11 Possession, misrepresenting age or military service
77 to purchase, and purchase of tobacco products or nicotine
78 dispensing devices by persons under 18 years of age prohibited;
79 penalties; jurisdiction; disposition of fines.—

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

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

2014224e1

88 program, if locally available;

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

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

96

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

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

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

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

116 (c) For a third or subsequent violation within 12 weeks of

2014224e1

117 the first violation, the court must direct the Department of
118 Highway Safety and Motor Vehicles to withhold issuance of or
119 suspend or revoke the person's driver ~~driver's~~ license or
120 driving privilege, as provided in s. 322.056.

121

122 Any second or subsequent violation not within the 12-week time
123 period after the first violation is punishable as provided for a
124 first violation.

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

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

141 (6) Eighty percent of all civil penalties received by a
142 county court pursuant to this section shall be remitted by the
143 clerk of the court to the Department of Revenue for transfer to
144 the Department of Education to provide for teacher training and
145 for research and evaluation to reduce and prevent the use of

2014224e1

146 tobacco products or nicotine dispensing devices by children. The
147 remaining 20 percent of civil penalties received by a county
148 court pursuant to this section shall remain with the clerk of
149 the county court to cover administrative costs.

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

152 569.14 Posting of a sign stating that the sale of tobacco
153 products or nicotine dispensing devices to persons under 18
154 years of age is unlawful; enforcement; penalty.-

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

159
160 THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO
161 PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE
162 IS REQUIRED FOR PURCHASE.

163
164 (2) The division shall make available to dealers of tobacco
165 products or nicotine dispensing devices signs that meet the
166 requirements of subsection (1).

167 (3) Any dealer that sells tobacco products or nicotine
168 dispensing devices shall provide at the checkout counter in a
169 location clearly visible to the dealer, the dealer's agent or
170 employee, instructional material in a calendar format or similar
171 format to assist in determining whether a person is of legal age
172 to purchase tobacco products or nicotine dispensing devices.
173 This point of sale material must contain substantially the
174 following language:

2014224e1

175
176 IF YOU WERE NOT BORN BEFORE THIS DATE
177 (insert date and applicable year)
178 YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.

179
180 Upon approval by the division, in lieu of a calendar a dealer
181 may use card readers, scanners, or other electronic or automated
182 systems that can verify whether a person is of legal age to
183 purchase tobacco products or nicotine dispensing devices.

184 Failure to comply with the provisions contained in this
185 subsection shall result in imposition of administrative
186 penalties as provided in s. 569.006.

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

189 569.19 Annual report.—The division shall report annually
190 with written findings to the Legislature and the Governor by
191 December 31, on the progress of implementing the enforcement
192 provisions of this chapter. This must include, but is not
193 limited to:

194 (3) The number of violations for selling tobacco products
195 or nicotine dispensing devices to persons under age 18, and the
196 results of administrative hearings on the above and related
197 issues.

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

202 322.056 Mandatory revocation or suspension of, or delay of
203 eligibility for, driver ~~driver's~~ license for persons under age

2014224e1

204 18 found guilty of certain alcohol, drug, or tobacco offenses;
205 prohibition.-

206 (2) If a person under 18 years of age is found by the court
207 to have committed a noncriminal violation under s. 569.11 and
208 that person has failed to comply with the procedures established
209 in that section by failing to fulfill community service
210 requirements, failing to pay the applicable fine, or failing to
211 attend a locally available school-approved anti-tobacco program,
212 and:

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

- 217 1. For the first violation, for 30 days.
- 218 2. For the second violation within 12 weeks of the first
219 violation, for 45 days.

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

- 224 1. For the first violation, for 30 days.
- 225 2. For the second violation within 12 weeks of the first
226 violation, for 45 days.

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

- 231 1. For the first violation, for 30 days.
- 232 2. For the second violation within 12 weeks of the first

2014224e1

233 violation, for 45 days.

234

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

238 (3) If a person under 18 years of age is found by the court
239 to have committed a third violation of s. 569.11 within 12 weeks
240 of the first violation, the court must direct the Department of
241 Highway Safety and Motor Vehicles to suspend or withhold
242 issuance of his or her driver ~~driver's~~ license or driving
243 privilege for 60 consecutive days. Any third violation of s.
244 569.11 not within the 12-week period after the first violation
245 will be treated as a first violation and in the same manner as
246 provided in subsection (2).

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