

2014224er

1  
2 An act relating to tobacco and nicotine product  
3 regulation; amending s. 569.14, F.S.; allowing  
4 alternate signage requirements where a dealer that  
5 sells tobacco products also sells nicotine products or  
6 nicotine dispensing devices; creating s. 877.112,  
7 F.S.; defining terms; prohibiting the selling,  
8 delivering, bartering, furnishing, or giving of  
9 nicotine products or nicotine dispensing devices to  
10 persons under 18 years of age; prohibiting the gift of  
11 sample nicotine products or nicotine dispensing  
12 devices to persons under 18 years of age; providing  
13 penalties; providing affirmative defenses for a person  
14 charged with certain violations; prohibiting a person  
15 under 18 years of age from possessing, purchasing, or  
16 misrepresenting his or her age or military service to  
17 purchase nicotine products or nicotine dispensing  
18 devices; providing for use of civil fines; requiring  
19 certain signage where a retailer sells nicotine  
20 products or nicotine dispensing devices; prohibiting  
21 self-service merchandising where a retailer sells  
22 nicotine products or nicotine dispensing devices;  
23 providing an exception; prohibiting the sale or  
24 delivery of nicotine products or nicotine dispensing  
25 devices except when such products are under the direct  
26 control or line of sight of a retailer; prohibiting  
27 sales from a vending machine unless it is equipped  
28 with certain devices; amending s. 322.056, F.S.;

29 conforming provisions to changes made by the act;

2014224er

30 providing an effective date.

31  
32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Section 569.14, Florida Statutes, is amended to  
35 read:

36 569.14 Posting of a sign stating that the sale of tobacco  
37 products to persons under 18 years of age is unlawful;  
38 enforcement; penalty.—

39 (1) A ~~Any~~ dealer that sells tobacco products shall post a  
40 clear and conspicuous sign in each place of business where such  
41 products are sold which substantially states the following:  
42 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 18 IS  
43 AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

44 (2) A dealer that sells tobacco products and nicotine  
45 products or nicotine dispensing devices, as defined in s.  
46 877.112, may use a sign that substantially states the following:  
47 THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR NICOTINE  
48 DISPENSING DEVICES TO PERSONS UNDER THE AGE OF 18 IS AGAINST  
49 FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

50 A dealer that uses a sign as described in this subsection meets  
51 the signage requirements of ss. 569.14(1) and 877.112.

52 (3) ~~(2)~~ The division shall make available to dealers of  
53 tobacco products signs that meet the requirements of subsection  
54 (1) or subsection (2).

55 (4) ~~(3)~~ Any dealer that sells tobacco products shall provide  
56 at the checkout counter in a location clearly visible to the  
57 dealer, the dealer's agent or employee, instructional material  
58 in a calendar format or similar format to assist in determining

2014224er

59 whether a person is of legal age to purchase tobacco products.  
60 This point of sale material must contain substantially the  
61 following language:

62 IF YOU WERE NOT BORN BEFORE THIS DATE  
63 (insert date and applicable year)  
64 YOU CANNOT BUY TOBACCO PRODUCTS.

65 Upon approval by the division, in lieu of a calendar a dealer  
66 may use card readers, scanners, or other electronic or automated  
67 systems that can verify whether a person is of legal age to  
68 purchase tobacco products. Failure to comply with the provisions  
69 contained in this subsection shall result in imposition of  
70 administrative penalties as provided in s. 569.006.

71 ~~(5)-(4)~~ The division, through its agents and inspectors,  
72 shall enforce this section.

73 ~~(6)-(5)~~ Any person who fails to comply with subsection (1)  
74 is guilty of a misdemeanor of the second degree, punishable as  
75 provided in s. 775.082 or s. 775.083.

76 Section 2. Section 877.112, Florida Statutes, is created to  
77 read:

78 877.112 Nicotine products and nicotine dispensing devices;  
79 prohibitions for minors; penalties; civil fines; signage  
80 requirements; preemption.-

81 (1) DEFINITIONS.-As used in this section, the term:

82 (a) "Nicotine dispensing device" means any product that  
83 employs an electronic, chemical or mechanical means to produce  
84 vapor from a nicotine product, including, but not limited to, an  
85 electronic cigarette, electronic cigar, electronic cigarillo,  
86 electronic pipe, or other similar device or product, any  
87 replacement cartridge for such device, and any other container

2014224er

88 of nicotine in a solution or other form intended to be used with  
89 or within an electronic cigarette, electronic cigar, electronic  
90 cigarillo, electronic pipe, or other similar device or product.

91 (b) "Nicotine product" means any product that contains  
92 nicotine, including liquid nicotine, that is intended for human  
93 consumption, whether inhaled, chewed, absorbed, dissolved, or  
94 ingested by any means, but does not include a:

95 1. Tobacco product, as defined in s. 569.002;

96 2. Product regulated as a drug or device by the United  
97 States Food and Drug Administration under Chapter V of the  
98 federal Food, Drug, and Cosmetic Act; or

99 3. Product that contains incidental nicotine.

100 (c) "Self-service merchandising" means the open display of  
101 nicotine products or nicotine dispensing devices, whether  
102 packaged or otherwise, for direct retail customer access and  
103 handling before purchase without the intervention or assistance  
104 of the retailer or the retailer's owner, employee, or agent. An  
105 open display of such products and devices includes the use of an  
106 open display unit.

107 (2) PROHIBITIONS ON SALE TO MINORS.—It is unlawful to sell,  
108 deliver, barter, furnish, or give, directly or indirectly, to  
109 any person who is under 18 years of age, any nicotine product or  
110 a nicotine dispensing device.

111 (3) PROHIBITIONS ON GIFTING SAMPLES TO MINORS.—The gift of  
112 a sample nicotine product or nicotine dispensing device to any  
113 person under the age of 18 by a retailer of nicotine products or  
114 nicotine dispensing devices, or by an employee of such retailer,  
115 is prohibited.

116 (4) PENALTIES.—Any person who violates subsection (2) or

2014224er

117 subsection (3) commits a misdemeanor of the second degree,  
118 punishable as provided in s. 775.082 or s. 775.083. However, any  
119 person who violates subsection (2) or subsection (3) for a  
120 second or subsequent time within 1 year of the first violation,  
121 commits a misdemeanor of the first degree, punishable as  
122 provided in s. 775.082 or s. 775.083.

123 (5) AFFIRMATIVE DEFENSES.—A person charged with a violation  
124 of subsection (2) or subsection (3) has a complete defense if,  
125 at the time the nicotine product or nicotine dispensing device  
126 was sold, delivered, bartered, furnished, or given:

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

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

132 (c) Such person carefully checked a driver license or an  
133 identification card issued by this state or another state of the  
134 United States, a passport, or a United States armed services  
135 identification card presented by the buyer or recipient and  
136 acted in good faith and in reliance upon the representation and  
137 appearance of the buyer or recipient in the belief that the  
138 buyer or recipient was 18 years of age or older.

139 (6) PROHIBITIONS ON POSSESSION OF NICOTINE PRODUCTS OR  
140 NICOTINE DISPENSING DEVICES BY MINORS.—It is unlawful for any  
141 person under 18 years of age to knowingly possess any nicotine  
142 product or a nicotine dispensing device. Any person under 18  
143 years of age who violates this subsection commits a noncriminal  
144 violation as defined in s. 775.08(3), punishable by:

145 (a) For a first violation, 16 hours of community service

2014224er

146 or, instead of community service, a \$25 fine. In addition, the  
147 person must attend a school-approved anti-tobacco and nicotine  
148 program, if locally available;

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

151 (c) For a third or subsequent violation within 12 weeks of  
152 the first violation, the court must direct the Department of  
153 Highway Safety and Motor Vehicles to withhold issuance of or  
154 suspend or revoke the person's driver license or driving  
155 privilege, as provided in s. 322.056.

156  
157 Any second or subsequent violation not within the 12-week time  
158 period after the first violation is punishable as provided for a  
159 first violation.

160 (7) PROHIBITION ON MISREPRESENTING AGE.—It is unlawful for  
161 any person under 18 years of age to misrepresent his or her age  
162 or military service for the purpose of inducing a retailer of  
163 nicotine products or nicotine dispensing devices or an agent or  
164 employee of such retailer to sell, give, barter, furnish, or  
165 deliver any nicotine product or nicotine dispensing device, or  
166 to purchase, or attempt to purchase, any nicotine product or  
167 nicotine dispensing device from a person or a vending machine.  
168 Any person under 18 years of age who violates this subsection  
169 commits a noncriminal violation as defined in s. 775.08(3),  
170 punishable by:

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

2014224er

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

177 (c) For a third or subsequent violation within 12 weeks of  
178 the first violation, the court must direct the Department of  
179 Highway Safety and Motor Vehicles to withhold issuance of or  
180 suspend or revoke the person's driver license or driving  
181 privilege, as provided in s. 322.056.

182  
183 Any second or subsequent violation not within the 12-week time  
184 period after the first violation is punishable as provided for a  
185 first violation.

186 (8) PENALTIES FOR MINORS.—

187 (a) A person under 18 years of age cited for committing a  
188 noncriminal violation under this section must sign and accept a  
189 civil citation indicating a promise to appear before the county  
190 court or comply with the requirement for paying the fine and  
191 must attend a school-approved anti-tobacco and nicotine program,  
192 if locally available. If a fine is assessed for a violation of  
193 this section, the fine must be paid within 30 days after the  
194 date of the citation or, if a court appearance is mandatory,  
195 within 30 days after the date of the hearing.

196 (b) A person charged with a noncriminal violation under  
197 this section must appear before the county court or comply with  
198 the requirement for paying the fine. The court, after a hearing,  
199 shall make a determination as to whether the noncriminal  
200 violation was committed. If the court finds the violation was  
201 committed, it shall impose an appropriate penalty as specified  
202 in subsection (6) or subsection (7). A person who participates  
203 in community service shall be considered an employee of the

2014224er

204 state for the purpose of chapter 440, for the duration of such  
205 service.

206 (c) If a person under 18 years of age is found by the court  
207 to have committed a noncriminal violation under this section and  
208 that person has failed to complete community service, pay the  
209 fine as required by paragraph (6) (a) or paragraph (7) (a), or  
210 attend a school-approved anti-tobacco and nicotine program, if  
211 locally available, the court must direct the Department of  
212 Highway Safety and Motor Vehicles to withhold issuance of or  
213 suspend the driver license or driving privilege of that person  
214 for 30 consecutive days.

215 (d) If a person under 18 years of age is found by the court  
216 to have committed a noncriminal violation under this section and  
217 that person has failed to pay the applicable fine as required by  
218 paragraph (6) (b) or paragraph (7) (b), the court must direct the  
219 Department of Highway Safety and Motor Vehicles to withhold  
220 issuance of or suspend the driver license or driving privilege  
221 of that person for 45 consecutive days.

222 (9) DISTRIBUTION OF CIVIL FINES.—Eighty percent of all  
223 civil penalties received by a county court pursuant to  
224 subsections (6) and (7) shall be remitted by the clerk of the  
225 court to the Department of Revenue for transfer to the  
226 Department of Education to provide for teacher training and for  
227 research and evaluation to reduce and prevent the use of tobacco  
228 products, nicotine products, or nicotine dispensing devices by  
229 children. The remaining 20 percent of civil penalties received  
230 by a county court pursuant to this section shall remain with the  
231 clerk of the county court to cover administrative costs.

232 (10) SIGNAGE REQUIREMENTS FOR RETAILERS OF NICOTINE



2014224er

233 PRODUCTS AND NICOTINE DISPENSING DEVICES.—

234 (a) Any retailer that sells nicotine products or nicotine  
235 dispensing devices shall post a clear and conspicuous sign in  
236 each place of business where such products are sold which  
237 substantially states the following:

238  
239 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING DEVICES TO  
240 PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE  
241 IS REQUIRED FOR PURCHASE.

242  
243 (b) A retailer that sells nicotine products or nicotine  
244 dispensing devices shall provide at the checkout counter in a  
245 location clearly visible to the retailer, the retailer's agent  
246 or employee, instructional material in a calendar format or  
247 similar format to assist in determining whether a person is of  
248 legal age to purchase nicotine products or nicotine dispensing  
249 devices. This point of sale material must contain substantially  
250 the following language:

251  
252 IF YOU WERE NOT BORN BEFORE THIS DATE  
253 (insert date and applicable year)  
254 YOU CANNOT BUY NICOTINE PRODUCTS OR NICOTINE DISPENSING DEVICES.

255  
256 In lieu of a calendar a retailer may use card readers, scanners,  
257 or other electronic or automated systems that can verify whether  
258 a person is of legal age to purchase nicotine products or  
259 nicotine dispensing devices.

260 (11) SELF-SERVICE MERCHANDISING PROHIBITED.—

261 (a) A retailer that sells nicotine products or nicotine

2014224er

262 dispensing devices may not sell, permit to be sold, offer for  
263 sale, or display for sale such products or devices by means of  
264 self-service merchandising.

265 (b) A retailer that sells nicotine products or nicotine  
266 dispensing devices may not place such products or devices in an  
267 open display unit unless the unit is located in an area that is  
268 inaccessible to customers.

269 (c) Paragraphs (a) and (b) do not apply to an establishment  
270 that prohibits persons under 18 years of age on the premises.

271 (12) RESTRICTIONS ON SALE OR DELIVERY OF NICOTINE PRODUCTS  
272 OR NICOTINE DISPENSING DEVICES.-

273 (a) In order to prevent persons under 18 years of age from  
274 purchasing or receiving nicotine products or nicotine dispensing  
275 devices, the sale or delivery of such products or devices is  
276 prohibited, except:

277 1. When under the direct control, or line of sight where  
278 effective control may be reasonably maintained, of the retailer  
279 of nicotine products or nicotine dispensing devices or such  
280 retailer's agent or employee; or

281 2. Sales from a vending machine are prohibited under  
282 subparagraph (a)1. and are only permissible from a machine that  
283 is equipped with an operational lockout device which is under  
284 the control of the retailer of nicotine products or nicotine  
285 dispensing devices or such retailer's agent or employee who  
286 directly regulates the sale of items through the machine by  
287 triggering the lockout device to allow the dispensing of one  
288 nicotine product or nicotine dispensing device. The lockout  
289 device must include a mechanism to prevent the machine from  
290 functioning, if the power source for the lockout device fails or

2014224er

291 if the lockout device is disabled, and a mechanism to ensure  
292 that only one nicotine product or nicotine dispensing device is  
293 dispensed at a time.

294 (b) Paragraph (a) does not apply to an establishment that  
295 prohibits persons under 18 years of age on the premises.

296 (c) A retailer of nicotine products or nicotine dispensing  
297 devices or such retailer's agent or employee may require proof  
298 of age of a purchaser of such products or devices before selling  
299 the product or device to that person.

300 Section 3. Subsections (2) and (3) of section 322.056,  
301 Florida Statutes, are amended to read:

302 322.056 Mandatory revocation or suspension of, or delay of  
303 eligibility for, driver ~~driver's~~ license for persons under age  
304 18 found guilty of certain alcohol, drug, or tobacco offenses;  
305 prohibition.-

306 (2) If a person under 18 years of age is found by the court  
307 to have committed a noncriminal violation under s. 569.11 or s.  
308 877.112(6) or (7) and that person has failed to comply with the  
309 procedures established in that section by failing to fulfill  
310 community service requirements, failing to pay the applicable  
311 fine, or failing to attend a locally available school-approved  
312 anti-tobacco program, and:

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

- 317 1. For the first violation, for 30 days.  
318 2. For the second violation within 12 weeks of the first  
319 violation, for 45 days.

2014224er

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

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

325 2. For the second violation within 12 weeks of the first  
326 violation, for 45 days.

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

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

332 2. For the second violation within 12 weeks of the first  
333 violation, for 45 days.

334  
335 Any second violation of s. 569.11 or s. 877.112(6) or (7) not  
336 within the 12-week period after the first violation will be  
337 treated as a first violation and in the same manner as provided  
338 in this subsection.

339 (3) If a person under 18 years of age is found by the court  
340 to have committed a third violation of s. 569.11 or s.

341 877.112(6) or (7) within 12 weeks of the first violation, the

342 court must direct the Department of Highway Safety and Motor  
343 Vehicles to suspend or withhold issuance of his or her driver  
344 ~~driver's~~ license or driving privilege for 60 consecutive days.

345 Any third violation of s. 569.11 or s. 877.112(6) or (7) not  
346 within the 12-week period after the first violation will be  
347 treated as a first violation and in the same manner as provided  
348 in subsection (2).

2014224er

349

Section 4. This act shall take effect July 1, 2014.