

By Senator Mayfield

17-00492A-18

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1 A bill to be entitled
2 An act relating to tobacco products; amending s.
3 569.002, F.S.; redefining the term "tobacco products"
4 to include all recreational nicotine products;
5 amending s. 569.007, F.S.; authorizing the sale or
6 delivery of tobacco products in direct, face-to-face
7 exchanges with dealers or their agents or employees;
8 removing a provision that allowed the sale or delivery
9 of tobacco products from a vending machine equipped
10 with a certain device; adding specified products to
11 the list of products that are exempt from the direct
12 sale requirement; prohibiting certain retailers from
13 placing certain products or devices in an open display
14 unit unless the unit or the establishment in which the
15 unit is located meets specific requirements; repealing
16 s. 877.112, F.S., relating to nicotine products and
17 nicotine dispensing devices; amending ss. 322.056 and
18 569.14, F.S.; conforming provisions to changes made by
19 the act; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (6) of section 569.002, Florida
24 Statutes, is amended to read:

25 569.002 Definitions.—As used in this chapter, the term:

26 (6) "Tobacco products" means all recreational nicotine
27 products, including, but not limited to, hookah and waterpipe
28 tobacco, electronic nicotine delivery systems and their
29 components, e-liquid, dissolvable tobacco, nicotine gel,

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30 smokeless tobacco, cigarettes, cigars, roll-your-own tobacco,
31 pipe tobacco, ~~includes~~ loose tobacco leaves, ~~and~~ products made
32 from tobacco leaves, in whole or in part, and cigarette
33 wrappers, which can be used for smoking, sniffing, or chewing.

34 Section 2. Section 569.007, Florida Statutes, is amended to
35 read:

36 569.007 Sale or delivery of tobacco products;
37 restrictions.-

38 (1) In order to prevent persons under 18 years of age from
39 purchasing or receiving tobacco products, the sale or delivery
40 of tobacco products is prohibited, except:

41 (a) When under the direct control ~~or line of sight~~ of the
42 dealer or the dealer's agent or employee; and ~~or~~

43 (b) In a direct, face-to-face exchange with the dealer or
44 the dealer's agent or employee ~~Sales from a vending machine are~~
45 ~~prohibited under the provisions of paragraph (1)(a) and are only~~
46 ~~permissible from a machine that is equipped with an operational~~
47 ~~lockout device which is under the control of the dealer or the~~
48 ~~dealer's agent or employee who directly regulates the sale of~~
49 ~~items through the machine by triggering the lockout device to~~
50 ~~allow the dispensing of one tobacco product. The lockout device~~
51 ~~must include a mechanism to prevent the machine from functioning~~
52 ~~if the power source for the lockout device fails or if the~~
53 ~~lockout device is disabled, and a mechanism to ensure that only~~
54 ~~one tobacco product is dispensed at a time.~~

55 (2) ~~The provisions of Subsection (1)~~ does ~~shall~~ not apply
56 to an establishment that prohibits persons under 18 years of age
57 on the licensed premises or-

58 ~~(3) The provisions of subsection (1) shall not apply to the~~

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59 sale or delivery of cigars, hookah and waterpipe tobacco,
60 dissolvable tobacco, nicotine gel, and pipe tobacco.

61 (3) A retailer that sells electronic nicotine delivery
62 systems or e-liquid may not place such products or devices in an
63 open display unit unless the unit is located in an area that is
64 inaccessible to customers or unless the establishment prohibits
65 persons under 18 years of age on the premises.

66 (4) A dealer or a dealer's agent or employee may require
67 proof of age of a purchaser of a tobacco product before selling
68 the product to that person.

69 (5) A wholesale dealer or distributing agent, as those
70 terms are defined in s. 210.01, or a distributor, as defined in
71 s. 210.25, may sell or deliver tobacco products only to dealers
72 who have permits.

73 Section 3. Section 877.112, Florida Statutes, is repealed.

74 Section 4. Subsections (2) and (3) of section 322.056,
75 Florida Statutes, are amended to read:

76 322.056 Mandatory revocation or suspension of, or delay of
77 eligibility for, driver license for persons under age 18 found
78 guilty of certain alcohol, drug, or tobacco offenses;
79 prohibition.-

80 (2) If a person under 18 years of age is found by the court
81 to have committed a noncriminal violation under s. 569.11 ~~or s.~~
82 ~~877.112(6) or (7)~~ and that person has failed to comply with the
83 procedures established in that section by failing to fulfill
84 community service requirements, failing to pay the applicable
85 fine, or failing to attend a locally available school-approved
86 anti-tobacco program, and:

87 (a) The person is eligible by reason of age for a driver

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88 license or driving privilege, the court shall direct the
89 department to revoke or to withhold issuance of his or her
90 driver license or driving privilege as follows:

- 91 1. For the first violation, for 30 days.
- 92 2. For the second violation within 12 weeks of the first
93 violation, for 45 days.

94 (b) The person's driver license or driving privilege is
95 under suspension or revocation for any reason, the court shall
96 direct the department to extend the period of suspension or
97 revocation by an additional period as follows:

- 98 1. For the first violation, for 30 days.
- 99 2. For the second violation within 12 weeks of the first
100 violation, for 45 days.

101 (c) The person is ineligible by reason of age for a driver
102 license or driving privilege, the court shall direct the
103 department to withhold issuance of his or her driver license or
104 driving privilege as follows:

- 105 1. For the first violation, for 30 days.
- 106 2. For the second violation within 12 weeks of the first
107 violation, for 45 days.

108
109 Any second violation of s. 569.11 ~~or s. 877.112(6) or (7)~~ not
110 within the 12-week period after the first violation will be
111 treated as a first violation and in the same manner as provided
112 in this subsection.

113 (3) If a person under 18 years of age is found by the court
114 to have committed a third violation of s. 569.11 ~~or s.~~
115 ~~877.112(6) or (7)~~ within 12 weeks of the first violation, the
116 court must direct the Department of Highway Safety and Motor

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117 Vehicles to suspend or withhold issuance of his or her driver
118 license or driving privilege for 60 consecutive days. Any third
119 violation of s. 569.11 ~~or s. 877.112(6) or (7)~~ not within the
120 12-week period after the first violation will be treated as a
121 first violation and in the same manner as provided in subsection
122 (2).

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

125 569.14 Posting of a sign stating that the sale of tobacco
126 products to persons under 18 years of age is unlawful;
127 enforcement; penalty.-

128 ~~(2) A dealer that sells tobacco products and nicotine~~
129 ~~products or nicotine dispensing devices, as defined in s.~~
130 ~~877.112, may use a sign that substantially states the following:~~

131
132 ~~THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR~~
133 ~~NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE~~
134 ~~OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED~~
135 ~~FOR PURCHASE.~~

136
137 ~~A dealer that uses a sign as described in this subsection meets~~
138 ~~the signage requirements of subsection (1) and s. 877.112.~~

139 (2) ~~(3)~~ The division shall make available to dealers of
140 tobacco products signs that meet the requirements of subsection
141 (1) ~~or subsection (2)~~.

142 Section 6. This act shall take effect July 1, 2018.