

By Senator Mayfield

17-00381A-19

20191046\_\_

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       creating s. 569.0035, F.S.; defining the term  
6       "flavored tobacco products"; prohibiting retail  
7       tobacco products dealers from dealing in flavored  
8       tobacco products unless they prohibit persons under a  
9       specified age on the premises; providing for a civil  
10      penalty; amending s. 569.007, F.S.; authorizing the  
11      sale or delivery of tobacco products in direct, face-  
12      to-face exchanges with dealers or their agents or  
13      employees; removing a provision that allowed the sale  
14      or delivery of tobacco products from a vending machine  
15      equipped with a certain device; adding specified  
16      products to the list of products that are exempt from  
17      the direct sale requirement; prohibiting certain  
18      retailers from placing certain products or devices in  
19      an open display unit unless the unit or the  
20      establishment in which the unit is located meets  
21      specific requirements; repealing s. 877.112, F.S.,  
22      relating to nicotine products and nicotine dispensing  
23      devices; amending ss. 322.056 and 569.14, F.S.;  
24      conforming provisions to changes made by the act;  
25      providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

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29       Section 1. Subsection (6) of section 569.002, Florida

17-00381A-19

20191046\_\_

30 Statutes, is amended to read:

31 569.002 Definitions.—As used in this chapter, the term:

32 (6) “Tobacco products” means all recreational nicotine  
33 products, including, but not limited to, hookah and waterpipe  
34 tobacco, electronic nicotine delivery systems and their  
35 components, e-liquid, dissolvable tobacco, nicotine gel,  
36 smokeless tobacco, cigarettes, cigars, roll-your-own tobacco,  
37 pipe tobacco, ~~includes~~ loose tobacco leaves, ~~and~~ products made  
38 from tobacco leaves, in whole or in part, and cigarette  
39 wrappers, which can be used for smoking, sniffing, or chewing.

40 Section 2. Section 569.0035, Florida Statutes, is created  
41 to read:

42 569.0035 Flavored tobacco products; penalty.—

43 (1) For the purposes of this section, the term “flavored  
44 tobacco products” means tobacco products that contain an  
45 artificial or natural flavor, other than tobacco, menthol, or  
46 mint, which is a characterizing flavor of the tobacco product.

47 (2) A dealer may not deal, at retail, in flavored tobacco  
48 products in this state or allow a vending machine offering  
49 flavored tobacco products to be located on its premises in this  
50 state, unless the dealer prohibits persons under 18 years of age  
51 on the premises.

52 (3) A dealer, including its agents, officers, or employees,  
53 which violates this section may be subject to a civil penalty by  
54 the division of up to \$500 per violation.

55 Section 3. Section 569.007, Florida Statutes, is amended to  
56 read:

57 569.007 Sale or delivery of tobacco products;  
58 restrictions.—

17-00381A-19

20191046\_\_

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

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

64 (b) In a direct, face-to-face exchange with the dealer or  
65 the dealer's agent or employee ~~Sales from a vending machine are~~  
66 ~~prohibited under the provisions of paragraph (1)(a) and are only~~  
67 ~~permissible from a machine that is equipped with an operational~~  
68 ~~lockout device which is under the control of the dealer or the~~  
69 ~~dealer's agent or employee who directly regulates the sale of~~  
70 ~~items through the machine by triggering the lockout device to~~  
71 ~~allow the dispensing of one tobacco product. The lockout device~~  
72 ~~must include a mechanism to prevent the machine from functioning~~  
73 ~~if the power source for the lockout device fails or if the~~  
74 ~~lockout device is disabled, and a mechanism to ensure that only~~  
75 ~~one tobacco product is dispensed at a time.~~

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

79 ~~(3) The provisions of subsection (1) shall not apply to the~~  
80 ~~sale or delivery of cigars, hookah and waterpipe tobacco,~~  
81 ~~dissolvable tobacco, nicotine gel, and pipe tobacco.~~

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

87 (4) A dealer or a dealer's agent or employee may require

17-00381A-19

20191046\_\_

88 proof of age of a purchaser of a tobacco product before selling  
89 the product to that person.

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

94 Section 4. Section 877.112, Florida Statutes, is repealed.

95 Section 5. Subsections (2) and (3) of section 322.056,  
96 Florida Statutes, are amended to read:

97 322.056 Mandatory revocation or suspension of, or delay of  
98 eligibility for, driver license for persons under age 18 found  
99 guilty of certain alcohol, drug, or tobacco offenses;  
100 prohibition.—

101 (2) If a person under 18 years of age is found by the court  
102 to have committed a noncriminal violation under s. 569.11 ~~or s.~~  
103 ~~877.112(6) or (7)~~ and that person has failed to comply with the  
104 procedures established in that section by failing to fulfill  
105 community service requirements, failing to pay the applicable  
106 fine, or failing to attend a locally available school-approved  
107 anti-tobacco program, and:

108 (a) The person is eligible by reason of age for a driver  
109 license or driving privilege, the court shall direct the  
110 department to revoke or to withhold issuance of his or her  
111 driver license or driving privilege as follows:

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

113 2. For the second violation within 12 weeks of the first  
114 violation, for 45 days.

115 (b) The person's driver license or driving privilege is  
116 under suspension or revocation for any reason, the court shall

17-00381A-19

20191046\_\_

117 direct the department to extend the period of suspension or  
118 revocation by an additional period as follows:

- 119 1. For the first violation, for 30 days.  
120 2. For the second violation within 12 weeks of the first  
121 violation, for 45 days.

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

- 126 1. For the first violation, for 30 days.  
127 2. For the second violation within 12 weeks of the first  
128 violation, for 45 days.

129

130 Any second violation of s. 569.11 ~~or s. 877.112(6) or (7)~~ not  
131 within the 12-week period after the first violation will be  
132 treated as a first violation and in the same manner as provided  
133 in this subsection.

134 (3) If a person under 18 years of age is found by the court  
135 to have committed a third violation of s. 569.11 ~~or s.~~  
136 ~~877.112(6) or (7)~~ within 12 weeks of the first violation, the  
137 court must direct the Department of Highway Safety and Motor  
138 Vehicles to suspend or withhold issuance of his or her driver  
139 license or driving privilege for 60 consecutive days. Any third  
140 violation of s. 569.11 ~~or s. 877.112(6) or (7)~~ not within the  
141 12-week period after the first violation will be treated as a  
142 first violation and in the same manner as provided in subsection  
143 (2).

144 Section 6. Subsections (2) and (3) of section 569.14,  
145 Florida Statutes, are amended to read:

17-00381A-19

20191046\_\_

146           569.14 Posting of a sign stating that the sale of tobacco  
147 products to persons under 18 years of age is unlawful;  
148 enforcement; penalty.-

149           ~~(2) A dealer that sells tobacco products and nicotine~~  
150 ~~products or nicotine dispensing devices, as defined in s.~~  
151 ~~877.112, may use a sign that substantially states the following:~~

152  
153           ~~THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR~~  
154 ~~NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE~~  
155 ~~OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED~~  
156 ~~FOR PURCHASE.~~

157  
158           ~~A dealer that uses a sign as described in this subsection meets~~  
159 ~~the signage requirements of subsection (1) and s. 877.112.~~

160           (2)~~(3)~~ The division shall make available to dealers of  
161 tobacco products signs that meet the requirements of subsection  
162 (1) ~~or subsection (2)~~.

163           Section 7. This act shall take effect July 1, 2019.