

1                                   A bill to be entitled  
2           An act relating to the use of regulated substances;  
3           creating s. 163.085, F.S.; providing definitions;  
4           preempting the establishment of the minimum age for  
5           the sale or delivery of tobacco products, nicotine  
6           products, or nicotine dispensing devices to the state;  
7           providing exceptions; amending s. 210.095, F.S.;  
8           deleting the definition of the term "adult";  
9           conforming provisions to changes made by the act;  
10          amending s. 381.986, F.S.; providing that it is  
11          unlawful for a qualified physician to issue a  
12          physician certification for marijuana in a form for  
13          smoking to a patient under 21 years of age; requiring  
14          the standardized informed consent form to include  
15          certain information concerning negative health effects  
16          of smoking marijuana on persons under 21 years of age;  
17          amending s. 386.212, F.S.; providing that it is  
18          unlawful for persons under 21 years of age to smoke  
19          tobacco in, on, or within 1,000 feet of the real  
20          property comprising a public or private elementary,  
21          middle, or secondary school during specified hours;  
22          amending s. 569.002, F.S.; revising the definition of  
23          the term "any person under the age of 18"; amending s.  
24          569.007, F.S.; providing that it is unlawful to sell  
25          or deliver tobacco products to persons under 21 years

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26 of age; providing an exception; amending s. 569.0075,  
27 F.S.; prohibiting certain entities from gifting sample  
28 tobacco products to persons under 21 years of age;  
29 amending s. 569.008, F.S.; providing legislative  
30 intent; conforming provisions to changes made by the  
31 act; amending s. 569.101, F.S.; providing that it is  
32 unlawful to sell, deliver, barter, furnish, or give  
33 tobacco products to persons under 21 years of age;  
34 conforming provisions to changes made by the act;  
35 amending s. 569.11, F.S.; prohibiting persons under 21  
36 years of age from possessing tobacco products;  
37 providing that it is unlawful for persons under 21  
38 years of age to misrepresent their age or military  
39 service to acquire tobacco products; conforming a  
40 provision to changes made by the act; amending ss.  
41 569.12, 569.14, and 569.19, F.S.; conforming  
42 provisions to changes made by the act; amending s.  
43 877.112, F.S.; providing a definition; prohibiting the  
44 sale and possession of nicotine products or nicotine  
45 dispensing devices by persons under 21 years of age;;  
46 providing an effective date.

47  
48 Be It Enacted by the Legislature of the State of Florida:

49  
50 Section 1. Section 163.085, Florida Statutes, is created

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51 to read:

52 163.085 Preemption of the establishment of the minimum age  
53 for tobacco products, nicotine products, or nicotine dispensing  
54 devices, and the regulation of marketing of such products.-

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

56 (a) "Local government" means a county, municipality,  
57 special district, or political subdivision of the state.

58 (b) "Minimum age" means the lawful age to purchase or  
59 knowingly possess tobacco products, nicotine products, or  
60 nicotine dispensing devices.

61 (c) "Nicotine dispensing device" has the same meaning as  
62 in s. 877.112.

63 (d) "Nicotine product" has the same meaning as in s.  
64 877.112.

65 (e) "Retail licensure" means any certification,  
66 registration, or license that is required for a person, firm,  
67 association, or corporation to deal, at retail, any tobacco  
68 products.

69 (f) "Tobacco products" has the same meaning as in s.  
70 569.002.

71 (2) PREEMPTION.-The establishment of the minimum age for  
72 the sale and delivery of tobacco products, nicotine products, or  
73 nicotine dispensing devices, and the regulation of the marketing  
74 of such products, is preempted to the state. Nothing in this  
75 section shall be construed to affect a local government's

76 | ability to require retail licensure for the sale of tobacco  
 77 | products.

78 | Section 2. Paragraphs (b) through (j) of subsection (1) of  
 79 | section 210.095, Florida Statutes, are redesignated as  
 80 | paragraphs (a) through (i), respectively, and paragraph (a) of  
 81 | subsection (1), paragraph (c) of subsection (2), paragraph (a)  
 82 | of subsection (3), paragraph (a) of subsection (4), subsection  
 83 | (5), and paragraphs (a), (b), (e), and (g) of subsection (8) of  
 84 | that section are amended, to read:

85 | 210.095 Mail order, Internet, and remote sales of tobacco  
 86 | products; age verification.-

87 | (1) For purposes of this section, the term:

88 | ~~(a) "Adult" means an individual who is at least of the~~  
 89 | ~~legal minimum purchase age for tobacco products.~~

90 | (2)

91 | (c) A person may not make a delivery sale of tobacco  
 92 | products to any individual who is not 21 years of age or older  
 93 | ~~an adult.~~

94 | (3) A person may not mail, ship, or otherwise deliver  
 95 | tobacco products in connection with an order for a delivery sale  
 96 | unless, before the first delivery to the consumer, the person  
 97 | accepting the order for the delivery sale:

98 | (a) Obtains from the individual submitting the order a  
 99 | certification that includes:

100 | 1. Reliable confirmation that the individual is 21 years

101 | of age or older ~~an adult~~; and

102 |         2. A statement signed by the individual in writing and  
103 | under penalty of perjury which:

104 |         a. Certifies the address and date of birth of the  
105 | individual; and

106 |         b. Confirms that the individual wants to receive delivery  
107 | sales from a tobacco company and understands that, under the  
108 | laws of this state, the following actions are illegal:

109 |             (I) Signing another individual's name to the  
110 | certification;

111 |             (II) Selling tobacco products to individuals under the  
112 | legal minimum purchase age; and

113 |             (III) Purchasing tobacco products, if the person making  
114 | the purchase is under the legal minimum purchase age.

115 |

116 | In addition to the requirements of this subsection, a person  
117 | accepting an order for a delivery sale may request that a  
118 | consumer provide an electronic mail address.

119 |         (4) The notice described in paragraph (3)(c) must include  
120 | prominent and clearly legible statements that sales of tobacco  
121 | products are:

122 |             (a) Illegal if made to individuals who are not 21 years of  
123 | age or older ~~adults~~.

124 |

125 | The notice must include an explanation of how each tax has been,

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126 or is to be, paid with respect to the delivery sale.

127 (5) Each person who mails, ships, or otherwise delivers  
128 tobacco products in connection with an order for a delivery sale  
129 must:

130 (a) Include as part of the shipping documents, in a clear  
131 and conspicuous manner, the following statement: "Tobacco  
132 Products: Florida law prohibits shipping to individuals under 21  
133 ~~18~~ years of age and requires the payment of all applicable  
134 taxes."

135 (b) Use a method of mailing, shipping, or delivery which  
136 obligates the delivery service to require:

137 1. The individual submitting the order for the delivery  
138 sale or another individual who is 21 years of age or older ~~adult~~  
139 who resides at the individual's address to sign his or her name  
140 to accept delivery of the shipping container. Proof of the legal  
141 minimum purchase age of the individual accepting delivery is  
142 required only if the individual appears to be under 27 years of  
143 age.

144 2. Proof that the individual is either the addressee or  
145 the individual who is 21 years of age or older ~~adult~~ designated  
146 by the addressee, in the form of a valid, government-issued  
147 identification card bearing a photograph of the individual who  
148 signs to accept delivery of the shipping container.

149 (c) Provide to the delivery service, if such service is  
150 used, evidence of full compliance with subsection (7).

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151  
152 If the person accepting a purchase order for a delivery sale  
153 delivers the tobacco products without using a delivery service,  
154 the person must comply with all of the requirements of this  
155 section which apply to a delivery service. Any failure to comply  
156 with a requirement of this section constitutes a violation  
157 thereof.

158 (8) (a) Except as otherwise provided in this section, a  
159 violation of this section by a person other than an individual  
160 who is not 21 years of age or older ~~an adult~~ is a misdemeanor of  
161 the first degree, punishable as provided in s. 775.082 or s.  
162 775.083, and:

163 1. For a first violation of this section, the person shall  
164 be fined \$1,000 or five times the retail value of the tobacco  
165 products involved in the violation, whichever is greater.

166 2. For a second or subsequent violation of this section,  
167 the person shall be fined \$5,000 or five times the retail value  
168 of the tobacco products involved in the violation, whichever is  
169 greater.

170 (b) A person who is 21 years of age or older ~~an adult~~ and  
171 knowingly submits a false certification under subsection (3)  
172 commits a misdemeanor of the first degree, punishable as  
173 provided in s. 775.082 or s. 775.083. For each offense, the  
174 person shall be fined \$10,000 or five times the retail value of  
175 the tobacco products involved in the violation, whichever is

176 greater.

177 (e) A person who, in connection with a delivery sale,  
 178 delivers tobacco products on behalf of a delivery service to an  
 179 individual who is not 21 years of age or older ~~an adult~~ commits  
 180 a misdemeanor of the third degree, punishable as provided in s.  
 181 775.082 or s. 775.083.

182 (g) An individual who is not 21 years of age or older ~~an~~  
 183 ~~adult~~ and who knowingly violates any provision of this section  
 184 commits a misdemeanor of the third degree, punishable as  
 185 provided in s. 775.082 or s. 775.083.

186 Section 3. Paragraph (d) of subsection (4) of section  
 187 381.986, Florida Statutes, as amended by chapter 2019-1, Laws of  
 188 Florida, is amended to read:

189 381.986 Medical use of marijuana.—

190 (4) PHYSICIAN CERTIFICATION.—

191 (d) A qualified physician may not issue a physician  
 192 certification for marijuana in a form for smoking to a patient  
 193 under 21 ~~18~~ years of age unless the patient is diagnosed with a  
 194 terminal condition, the qualified physician determines that  
 195 smoking is the most effective route of administration for the  
 196 patient, and a second physician who is a board-certified  
 197 pediatrician concurs with such determination. Such determination  
 198 and concurrence must be documented in the patient's medical  
 199 record and in the medical marijuana use registry. The certifying  
 200 physician must obtain the written informed consent of such



201 patient's parent or legal guardian before issuing a physician  
 202 certification to the patient for marijuana in a form for smoking  
 203 for patients under 18 years of age. The qualified physician must  
 204 use a standardized informed consent form adopted in rule by the  
 205 Board of Medicine and the Board of Osteopathic Medicine which  
 206 must include information concerning the negative health effects  
 207 of smoking marijuana on persons under 21 ~~18~~ years of age and an  
 208 acknowledgement that the qualified physician has sufficiently  
 209 explained the contents of the form.

210 Section 4. Subsection (1) of section 386.212, Florida  
 211 Statutes, is amended to read:

212 386.212 Smoking prohibited near school property; penalty.—

213 (1) It is unlawful for any person under 21 ~~18~~ years of age  
 214 to smoke tobacco in, on, or within 1,000 feet of the real  
 215 property comprising a public or private elementary, middle, or  
 216 secondary school between the hours of 6 a.m. and midnight. This  
 217 section does not apply to any person occupying a moving vehicle  
 218 or within a private residence.

219 Section 5. Subsection (7) of section 569.002, Florida  
 220 Statutes, is amended to read:

221 569.002 Definitions.—As used in this chapter, the term:

222 (7) "Any person under the age of 21 ~~18~~" does not include  
 223 any person under the age of 21 ~~18~~ who:

224 ~~(a) Has had his or her disability of nonage removed under~~  
 225 ~~chapter 743;~~

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226        (a) ~~(b)~~ Is in the military reserve or on active duty in the  
227 Armed Forces of the United States; or

228        ~~(c) Is otherwise emancipated by a court of competent~~  
229 ~~jurisdiction and released from parental care and responsibility;~~

230 ~~or~~

231        (b) ~~(d)~~ Is acting in his or her scope of lawful employment  
232 with an entity licensed under the provisions of chapter 210 or  
233 this chapter.

234        Section 6. Subsections (1) and (2) of section 569.007,  
235 Florida Statutes, are amended to read:

236        569.007 Sale or delivery of tobacco products;  
237 restrictions.—

238        (1) In order to prevent persons under 21 ~~18~~ years of age  
239 from purchasing or receiving tobacco products, the sale or  
240 delivery of tobacco products is prohibited, except:

241        (a) When under the direct control or line of sight of the  
242 dealer or the dealer's agent or employee; or

243        (b) Sales from a vending machine are prohibited under the  
244 provisions of paragraph (1) (a) and are only permissible from a  
245 machine that is equipped with an operational lockout device  
246 which is under the control of the dealer or the dealer's agent  
247 or employee who directly regulates the sale of items through the  
248 machine by triggering the lockout device to allow the dispensing  
249 of one tobacco product. The lockout device must include a  
250 mechanism to prevent the machine from functioning if the power

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251 source for the lockout device fails or if the lockout device is  
252 disabled, and a mechanism to ensure that only one tobacco  
253 product is dispensed at a time.

254 (2) The provisions of subsection (1) shall not apply to an  
255 establishment that prohibits persons under 21 ~~18~~ years of age on  
256 the licensed premises.

257 Section 7. Section 569.0075, Florida Statutes, is amended  
258 to read:

259 569.0075 Gift of sample tobacco products prohibited.—The  
260 gift of sample tobacco products to any person under the age of  
261 21 ~~18~~ by an entity licensed or permitted under the provisions of  
262 chapter 210 or this chapter, or by an employee of such entity,  
263 is prohibited and is punishable as provided in s. 569.101.

264 Section 8. Subsections (1) through (3) of section 569.008,  
265 Florida Statutes, are amended to read:

266 569.008 Responsible retail tobacco products dealers;  
267 qualifications; mitigation of disciplinary penalties; diligent  
268 management and supervision; presumption.—

269 (1) The Legislature intends to prevent the sale of tobacco  
270 products to persons under 21 ~~18~~ years of age and to encourage  
271 retail tobacco products dealers to comply with responsible  
272 practices in accordance with this section.

273 (2) To qualify as a responsible retail tobacco products  
274 dealer, the dealer must establish and implement procedures  
275 designed to ensure that the dealer's employees comply with the

276 provisions of this chapter. The dealer must provide a training  
277 program for the dealer's employees which addresses the use and  
278 sale of tobacco products and which includes at least the  
279 following topics:

280 (a) Laws covering the sale of tobacco products.

281 (b) Methods of recognizing and handling customers under 21  
282 ~~18~~ years of age.

283 (c) Procedures for proper examination of identification  
284 cards in order to verify that customers are not under 21 ~~18~~  
285 years of age.

286 (d) The use of the age audit identification function on  
287 electronic point-of-sale equipment, where available.

288 (3) In determining penalties under s. 569.006, the  
289 division may mitigate penalties imposed against a dealer because  
290 of an employee's illegal sale of a tobacco product to a person  
291 under 21 ~~18~~ years of age if the following conditions are met:

292 (a) The dealer is qualified as a responsible dealer under  
293 this section.

294 (b) The dealer provided the training program required  
295 under subsection (2) to that employee before the illegal sale  
296 occurred.

297 (c) The dealer had no knowledge of that employee's  
298 violation at the time of the violation and did not direct,  
299 approve, or participate in the violation.

300 (d) If the sale was made through a vending machine, the

301 machine was equipped with an operational lock-out device.

302 Section 9. Subsections (1) and (3) of section 569.101,  
 303 Florida Statutes, are amended to read:

304 569.101 Selling, delivering, bartering, furnishing, or  
 305 giving tobacco products to persons under 21 ~~18~~ years of age;  
 306 criminal penalties; defense.—

307 (1) It is unlawful to sell, deliver, barter, furnish, or  
 308 give, directly or indirectly, to any person who is under 21 ~~18~~  
 309 years of age, any tobacco product.

310 (3) A person charged with a violation of subsection (1)  
 311 has a complete defense if, at the time the tobacco product was  
 312 sold, delivered, bartered, furnished, or given:

313 (a) The buyer or recipient falsely evidenced that she or  
 314 he was 21 ~~18~~ years of age or older;

315 (b) The appearance of the buyer or recipient was such that  
 316 a prudent person would believe the buyer or recipient to be 21  
 317 ~~18~~ years of age or older; and

318 (c) Such person carefully checked a driver license or an  
 319 identification card issued by this state or another state of the  
 320 United States, a passport, or a United States armed services  
 321 identification card presented by the buyer or recipient and  
 322 acted in good faith and in reliance upon the representation and  
 323 appearance of the buyer or recipient in the belief that the  
 324 buyer or recipient was 21 ~~18~~ years of age or older.

325 Section 10. Section 569.11, Florida Statutes, is amended

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326 to read:

327           569.11 Possession, Misrepresenting age or military service  
328 to purchase, and purchase of tobacco products by persons under  
329 21 ~~18~~ years of age prohibited; penalties; jurisdiction;  
330 disposition of fines.—

331           (1) It is unlawful for any person under 21 ~~18~~ years of age  
332 to knowingly possess any tobacco product. Any person under 21 ~~18~~  
333 years of age who violates the provisions of this subsection  
334 commits a noncriminal violation as provided in s. 775.08(3),  
335 punishable by:

336           (a) For a first violation, 16 hours of community service  
337 or, instead of community service, a \$25 fine. In addition, the  
338 person must attend a school-approved anti-tobacco program, if  
339 locally available;

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

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

347  
348 Any second or subsequent violation not within the 12-week time  
349 period after the first violation is punishable as provided for a  
350 first violation.

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351 (2) It is unlawful for any person under 21 ~~18~~ years of age  
352 to misrepresent his or her age or military service for the  
353 purpose of inducing a dealer or an agent or employee of the  
354 dealer to sell, give, barter, furnish, or deliver any tobacco  
355 product, or to purchase, or attempt to purchase, any tobacco  
356 product from a person or a vending machine. Any person under 21  
357 ~~18~~ years of age who violates a provision of this subsection  
358 commits a noncriminal violation as provided in s. 775.08(3),  
359 punishable by:

360 (a) For a first violation, 16 hours of community service  
361 or, instead of community service, a \$25 fine and, in addition,  
362 the person must attend a school-approved anti-tobacco program,  
363 if available;

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

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

371  
372 Any second or subsequent violation not within the 12-week time  
373 period after the first violation is punishable as provided for a  
374 first violation.

375 (3) Any person under 21 ~~18~~ years of age cited for

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376 committing a noncriminal violation under this section must sign  
377 and accept a civil citation indicating a promise to appear  
378 before the county court or comply with the requirement for  
379 paying the fine and must attend a school-approved anti-tobacco  
380 program, if locally available. If a fine is assessed for a  
381 violation of this section, the fine must be paid within 30 days  
382 after the date of the citation or, if a court appearance is  
383 mandatory, within 30 days after the date of the hearing.

384 (4) A person charged with a noncriminal violation under  
385 this section must appear before the county court or comply with  
386 the requirement for paying the fine. The court, after a hearing,  
387 shall make a determination as to whether the noncriminal  
388 violation was committed. If the court finds the violation was  
389 committed, it shall impose an appropriate penalty as specified  
390 in subsection (1) or subsection (2). A person who participates  
391 in community service shall be considered an employee of the  
392 state for the purpose of chapter 440, for the duration of such  
393 service.

394 (5) (a) If a person under 21 ~~18~~ years of age is found by  
395 the court to have committed a noncriminal violation under this  
396 section and that person has failed to complete community  
397 service, pay the fine as required by paragraph (1) (a) or  
398 paragraph (2) (a), or attend a school-approved anti-tobacco  
399 program, if locally available, the court must direct the  
400 Department of Highway Safety and Motor Vehicles to withhold



401 issuance of or suspend the driver license or driving privilege  
 402 of that person for a period of 30 consecutive days.

403 (b) If a person under 21 ~~18~~ years of age is found by the  
 404 court to have committed a noncriminal violation under this  
 405 section and that person has failed to pay the applicable fine as  
 406 required by paragraph (1) (b) or paragraph (2) (b), the court must  
 407 direct the Department of Highway Safety and Motor Vehicles to  
 408 withhold issuance of or suspend the driver license or driving  
 409 privilege of that person for a period of 45 consecutive days.

410 (6) Eighty percent of all civil penalties received by a  
 411 county court pursuant to this section shall be remitted by the  
 412 clerk of the court to the Department of Revenue for transfer to  
 413 the Department of Education to provide for teacher training and  
 414 for research and evaluation to reduce and prevent the use of  
 415 tobacco products by children. The remaining 20 percent of civil  
 416 penalties received by a county court pursuant to this section  
 417 shall remain with the clerk of the county court to cover  
 418 administrative costs.

419 Section 11. Paragraph (b) of subsection (2) and subsection  
 420 (3) of section 569.12, Florida Statutes, are amended to read:

421 569.12 Jurisdiction; tobacco product enforcement officers  
 422 or agents; enforcement.—

423 (2)

424 (b) A tobacco product enforcement officer is authorized to  
 425 issue a citation to a person under the age of 21 ~~18~~ when, based

426 upon personal investigation, the officer has reasonable cause to  
427 believe that the person has committed a civil infraction in  
428 violation of s. 386.212 or s. 569.11.

429 (3) A correctional probation officer as defined in s.  
430 943.10(3) is authorized to issue a citation to a person under  
431 the age of 21 ~~18~~ when, based upon personal investigation, the  
432 officer has reasonable cause to believe that the person has  
433 committed a civil infraction in violation of s. 569.11.

434 Section 12. Subsections (1) and (2) of section 569.14,  
435 Florida Statutes, are amended to read:

436 569.14 Posting of a sign stating that the sale of tobacco  
437 products to persons under the age of 21 ~~18 years of age~~ is  
438 unlawful; enforcement; penalty.-

439 (1) A dealer that sells tobacco products shall post a  
440 clear and conspicuous sign in each place of business where such  
441 products are sold which substantially states the following:

442  
443 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 21 ~~18~~  
444 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

445  
446 (2) A dealer that sells tobacco products and nicotine  
447 products or nicotine dispensing devices, as defined in s.  
448 877.112, may use a sign that substantially states the following:

449  
450 THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR NICOTINE

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451 DISPENSING DEVICES TO PERSONS UNDER THE AGE OF 21 ~~18~~ IS AGAINST  
452 FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

453

454 A dealer that uses a sign as described in this subsection meets  
455 the signage requirements of subsection (1) and s. 877.112.

456 Section 13. Subsections (3) and (4) of section 569.19,  
457 Florida Statutes, are amended to read:

458 569.19 Annual report.—The division shall report annually  
459 with written findings to the Legislature and the Governor by  
460 December 31, on the progress of implementing the enforcement  
461 provisions of this chapter. This must include, but is not  
462 limited to:

463 (3) The number of violations for selling tobacco products  
464 to persons under the age of 21 ~~18~~, and the results of  
465 administrative hearings on the above and related issues.

466 (4) The number of persons under the age of 21 ~~18~~ cited for  
467 violations of s. 569.11 and sanctions imposed as a result of  
468 citation.

469 Section 14. Paragraphs (a), (b), and (c) of subsection (1)  
470 of section 877.112, Florida Statutes, are redesignated as  
471 paragraphs (b), (c), and (d), respectively, subsections (2),  
472 (3), (5), (6), (7), and (8), paragraph (a) of subsection (10),  
473 paragraph (c) of subsection (11), and paragraphs (a) and (b) of  
474 subsection (12) are amended, and a new paragraph (a) is added to  
475 subsection (1) of that section, to read:

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476           877.112 Nicotine products and nicotine dispensing devices;  
477 prohibitions for persons under 21 years of age ~~minors~~;  
478 penalties; civil fines; signage requirements; preemption.—

479           (1) DEFINITIONS.—As used in this section, the term:

480           (a) "Any person under 21 years of age" does not include  
481 any person under the age of 21 who:

482           1. Is in the military reserve or on active duty in the  
483 Armed Forces of the United States; or

484           2. Is acting in his or her scope of lawful employment with  
485 an entity that sells, manufactures, or distributes nicotine  
486 products or nicotine dispensing devices.

487           (2) PROHIBITIONS ON SALE TO PERSONS UNDER 21 YEARS OF AGE  
488 ~~MINORS~~.—It is unlawful to sell, deliver, barter, furnish, or  
489 give, directly or indirectly, to any person who is under 21 ~~18~~  
490 years of age, any nicotine product or a nicotine dispensing  
491 device.

492           (3) PROHIBITIONS ON GIFTING SAMPLES TO PERSONS UNDER 21  
493 YEARS OF AGE ~~MINORS~~.—The gift of a sample nicotine product or  
494 nicotine dispensing device to any person under the age of 21 ~~18~~  
495 by a retailer of nicotine products or nicotine dispensing  
496 devices, or by an employee of such retailer, is prohibited.

497           (5) AFFIRMATIVE DEFENSES.—A person charged with a  
498 violation of subsection (2) or subsection (3) has a complete  
499 defense if, at the time the nicotine product or nicotine  
500 dispensing device was sold, delivered, bartered, furnished, or

501 given:

502 (a) The buyer or recipient falsely evidenced that she or  
503 he was 21 ~~18~~ years of age or older;

504 (b) The appearance of the buyer or recipient was such that  
505 a prudent person would believe the buyer or recipient to be 21  
506 ~~18~~ years of age or older; and

507 (c) Such person carefully checked a driver license or an  
508 identification card issued by this state or another state of the  
509 United States, a passport, or a United States Armed Services  
510 identification card presented by the buyer or recipient and  
511 acted in good faith and in reliance upon the representation and  
512 appearance of the buyer or recipient in the belief that the  
513 buyer or recipient was 21 ~~18~~ years of age or older.

514 (6) PROHIBITIONS ON POSSESSION OF NICOTINE PRODUCTS OR  
515 NICOTINE DISPENSING DEVICES BY PERSONS UNDER 21 YEARS OF AGE  
516 ~~MINORS~~.—It is unlawful for any person under 21 ~~18~~ years of age  
517 to knowingly possess any nicotine product or a nicotine  
518 dispensing device. Any person under 21 ~~18~~ years of age who  
519 violates this subsection commits a noncriminal violation as  
520 defined in s. 775.08(3), punishable by:

521 (a) For a first violation, 16 hours of community service  
522 or, instead of community service, a \$25 fine. In addition, the  
523 person must attend a school-approved anti-tobacco and nicotine  
524 program, if locally available;

525 (b) For a second violation within 12 weeks of the first

526 violation, a \$25 fine; or

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

532  
 533 Any second or subsequent violation not within the 12-week time  
 534 period after the first violation is punishable as provided for a  
 535 first violation.

536 (7) PROHIBITION ON MISREPRESENTING AGE.—It is unlawful for  
 537 any person under 21 ~~18~~ years of age to misrepresent his or her  
 538 age or military service for the purpose of inducing a retailer  
 539 of nicotine products or nicotine dispensing devices or an agent  
 540 or employee of such retailer to sell, give, barter, furnish, or  
 541 deliver any nicotine product or nicotine dispensing device, or  
 542 to purchase, or attempt to purchase, any nicotine product or  
 543 nicotine dispensing device from a person or a vending machine.  
 544 Any person under 21 ~~18~~ years of age who violates this subsection  
 545 commits a noncriminal violation as defined in s. 775.08(3),  
 546 punishable by:

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

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

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

558

559 Any second or subsequent violation not within the 12-week time  
560 period after the first violation is punishable as provided for a  
561 first violation.

562 (8) PENALTIES FOR PERSONS UNDER 21 YEARS OF AGE ~~MINORS~~.—

563 (a) A person under 21 ~~18~~ years of age cited for committing  
564 a noncriminal violation under this section must sign and accept  
565 a civil citation indicating a promise to appear before the  
566 county court or comply with the requirement for paying the fine  
567 and must attend a school-approved anti-tobacco and nicotine  
568 program, if locally available. If a fine is assessed for a  
569 violation of this section, the fine must be paid within 30 days  
570 after the date of the citation or, if a court appearance is  
571 mandatory, within 30 days after the date of the hearing.

572 (b) A person charged with a noncriminal violation under  
573 this section must appear before the county court or comply with  
574 the requirement for paying the fine. The court, after a hearing,  
575 shall make a determination as to whether the noncriminal

576 violation was committed. If the court finds the violation was  
577 committed, it shall impose an appropriate penalty as specified  
578 in subsection (6) or subsection (7). A person who participates  
579 in community service shall be considered an employee of the  
580 state for the purpose of chapter 440, for the duration of such  
581 service.

582 (c) If a person under 21 ~~18~~ years of age is found by the  
583 court to have committed a noncriminal violation under this  
584 section and that person has failed to complete community  
585 service, pay the fine as required by paragraph (6) (a) or  
586 paragraph (7) (a), or attend a school-approved anti-tobacco and  
587 nicotine program, if locally available, the court must direct  
588 the Department of Highway Safety and Motor Vehicles to withhold  
589 issuance of or suspend the driver license or driving privilege  
590 of that person for 30 consecutive days.

591 (d) If a person under 21 ~~18~~ years of age is found by the  
592 court to have committed a noncriminal violation under this  
593 section and that person has failed to pay the applicable fine as  
594 required by paragraph (6) (b) or paragraph (7) (b), the court must  
595 direct the Department of Highway Safety and Motor Vehicles to  
596 withhold issuance of or suspend the driver license or driving  
597 privilege of that person for 45 consecutive days.

598 (10) SIGNAGE REQUIREMENTS FOR RETAILERS OF NICOTINE  
599 PRODUCTS AND NICOTINE DISPENSING DEVICES.—

600 (a) Any retailer that sells nicotine products or nicotine



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601 dispensing devices shall post a clear and conspicuous sign in  
602 each place of business where such products are sold which  
603 substantially states the following:

604 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING DEVICES TO  
605 PERSONS UNDER THE AGE OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF  
606 AGE IS REQUIRED FOR PURCHASE.

607 (11) SELF-SERVICE MERCHANDISING PROHIBITED.—

608 (c) Paragraphs (a) and (b) do not apply to an  
609 establishment that prohibits persons under 21 ~~18~~ years of age on  
610 the premises.

611 (12) RESTRICTIONS ON SALE OR DELIVERY OF NICOTINE PRODUCTS  
612 OR NICOTINE DISPENSING DEVICES.—

613 (a) In order to prevent persons under 21 ~~18~~ years of age  
614 from purchasing or receiving nicotine products or nicotine  
615 dispensing devices, the sale or delivery of such products or  
616 devices is prohibited, except:

617 1. When under the direct control, or line of sight where  
618 effective control may be reasonably maintained, of the retailer  
619 of nicotine products or nicotine dispensing devices or such  
620 retailer's agent or employee; or

621 2. Sales from a vending machine are prohibited under  
622 subparagraph 1. and are only permissible from a machine that is  
623 equipped with an operational lockout device which is under the  
624 control of the retailer of nicotine products or nicotine  
625 dispensing devices or such retailer's agent or employee who

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626 | directly regulates the sale of items through the machine by  
627 | triggering the lockout device to allow the dispensing of one  
628 | nicotine product or nicotine dispensing device. The lockout  
629 | device must include a mechanism to prevent the machine from  
630 | functioning, if the power source for the lockout device fails or  
631 | if the lockout device is disabled, and a mechanism to ensure  
632 | that only one nicotine product or nicotine dispensing device is  
633 | dispensed at a time.

634 |         (b) Paragraph (a) does not apply to an establishment that  
635 | prohibits persons under 21 ~~18~~ years of age on the premises.

636 |         Section 15. This act shall take effect October 1, 2019.