

By Senator Mayfield

17-00247D-20

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1 A bill to be entitled
2 An act relating to nicotine and tobacco products;
3 amending s. 569.002, F.S.; defining the term
4 "electronic smoking device"; redefining the term
5 "tobacco products"; amending s. 569.007, F.S.;
6 revising exemptions to the prohibition of the sale or
7 delivery of tobacco products; deleting a provision
8 that allows the sale or delivery of tobacco products
9 from a vending machine equipped with a certain device;
10 requiring a dealer or the agent of a dealer to require
11 proof of age of a purchaser of a tobacco product;
12 creating s. 569.0071, F.S.; defining the term
13 "flavored e-liquid"; prohibiting a dealer from selling
14 flavored e-liquid; providing that certain statements
15 and claims are presumptive evidence that e-liquid is
16 flavored e-liquid; repealing s. 877.112, F.S.,
17 relating to nicotine products and nicotine dispensing
18 devices; amending s. 569.14, F.S.; conforming
19 provisions to changes made by the act; providing an
20 effective date.

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

23
24 Section 1. Present subsections (3) through (7) of section
25 569.002, Florida Statutes, are redesignated as subsections (4)
26 through (8), respectively, a new subsection (3) is added to that
27 section, and present subsection (6) of that section is amended,
28 to read:

29 569.002 Definitions.—As used in this chapter, the term:

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30 (3) "Electronic smoking device" means any device that may
31 be used to deliver any aerosolized or vaporized substance to a
32 person inhaling from the device, including, but not limited to,
33 an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. The term
34 includes any component, part, or accessory of the device, and
35 also includes any substance that may be aerosolized or vaporized
36 by such device whether or not the substance contains nicotine.

37
38 The term does not include any drugs, devices, or combination
39 products authorized for sale by the United States Food and Drug
40 Administration, as those terms are defined in the Federal Food,
41 Drug, and Cosmetic Act.

42 (7)~~(6)~~ "Tobacco products" means any products containing,
43 made from, or derived from tobacco or nicotine which are
44 intended for human consumption or are likely to be consumed,
45 whether inhaled, absorbed, or ingested by any other means,
46 including, but not limited to, a cigarette, pipe tobacco, hookah
47 and waterpipe tobacco, e-liquid, dissolvable tobacco, nicotine
48 gel, smokeless tobacco, roll-your-own tobacco, chewing tobacco,
49 snuff, or snus.

50 (a) The term includes any component or accessory used in
51 the consumption of a tobacco product whether or not the
52 component or accessory contains tobacco or nicotine, including,
53 but not limited to, electronic smoking devices, filters, rolling
54 papers, blunt or hemp wraps, hookahs, and pipes.

55 (b) The term does not include any drugs, devices, or
56 combination products authorized for sale by the United States
57 Food and Drug Administration, as those terms are defined in the
58 Federal Food, Drug, and Cosmetic Act ~~includes loose tobacco~~

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59 ~~leaves, and products made from tobacco leaves, in whole or in~~
60 ~~part, and cigarette wrappers, which can be used for smoking,~~
61 ~~sniffing, or chewing.~~

62 Section 2. Subsections (1), (2), and (4) of section
63 569.007, Florida Statutes, are amended to read:

64 569.007 Sale or delivery of tobacco products;
65 restrictions.-

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

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

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

83 (2) ~~The provisions of Subsection (1) does~~ shall not apply
84 to an establishment that prohibits persons under 18 years of age
85 on the licensed premises.

86 ~~(5)-(4)~~ A dealer or a dealer's agent or employee shall ~~may~~
87 require proof of age of a purchaser of a tobacco product before

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88 selling the product to that person.

89 Section 3. Section 569.0071, Florida Statutes, is created
90 to read:

91 569.0071 Sale of flavored e-liquid prohibited.-

92 (1) As used in this section, the term "flavored e-liquid"
93 means any e-liquid that contains a taste or smell, other than
94 the taste or smell of tobacco, which is distinguishable by an
95 ordinary consumer either prior to or during the consumption of
96 the e-liquid, including, but not limited to, any taste or smell
97 relating to fruit, menthol, mint, wintergreen, chocolate, cocoa,
98 vanilla, honey, or any candy, dessert, alcoholic beverage, herb,
99 or spice.

100 (2) A dealer may not sell any flavored e-liquid.

101 (3) A public statement or claim concerning e-liquid is
102 presumptive evidence that the e-liquid is flavored e-liquid if
103 the statement or claim:

104 (a) Is made or disseminated by the manufacturer of the e-
105 liquid or by any person authorized or allowed by the
106 manufacturer to make or disseminate public statements concerning
107 the manufacturer's tobacco products; and

108 (b) States or claims that the e-liquid has or produces a
109 taste or smell other than tobacco.

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

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

113 569.14 Posting of a sign stating that the sale of tobacco
114 products to persons under 18 years of age is unlawful;
115 enforcement; penalty.-

116 ~~(2) A dealer that sells tobacco products and nicotine~~

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117 ~~products or nicotine dispensing devices, as defined in s.~~
118 ~~877.112, may use a sign that substantially states the following:~~

119
120 ~~THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR~~
121 ~~NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE~~
122 ~~OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED~~
123 ~~FOR PURCHASE.~~

124
125 ~~A dealer that uses a sign as described in this subsection meets~~
126 ~~the signage requirements of subsection (1) and s. 877.112.~~

127 (2) ~~(3)~~ The division shall make available to dealers of
128 tobacco products signs that meet the requirements of subsection
129 (1) ~~or subsection (2)~~.

130 Section 6. This act shall take effect July 1, 2020.