

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Jenne offered the following:

Amendment

Remove lines 117-808 and insert:

Section 8. Section 569.12, Florida Statutes, is amended to read:

569.12 Jurisdiction; tobacco product and nicotine product enforcement officers or agents; enforcement.-

(1) In addition to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, any law enforcement officer certified under s. 943.10(1), (6), or (8) shall enforce the provisions of this chapter.

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14 (2) (a) A county or municipality may designate certain of
15 its employees or agents as tobacco product and nicotine product
16 enforcement officers. The training and qualifications of the
17 employees or agents for such designation shall be determined by
18 the county or the municipality. Nothing in this section shall be
19 construed to permit the carrying of firearms or other weapons by
20 a tobacco product and nicotine product enforcement agent, nor
21 does designation as a tobacco product and nicotine product
22 enforcement officer provide the employee or agent with the power
23 of arrest or subject the employee or agent to the provisions of
24 ss. 943.085-943.255. Nothing in this section amends, alters, or
25 contravenes the provisions of any state-administered retirement
26 system or any state-supported retirement system established by
27 general law.

28 (b) A tobacco and nicotine product enforcement officer is
29 authorized to issue a citation to a person under the age of 18
30 or to a person under the age of 21 when, based upon personal
31 investigation, the officer has reasonable cause to believe that
32 the person has committed a civil infraction in violation of s.
33 386.212, ~~or~~ s. 569.11, or s. 569.42, as applicable.

34 (3) A correctional probation officer as defined in s.
35 943.10(3) is authorized to issue a citation to a person under
36 the age of 18 or to a person under the age of 21 when, based
37 upon personal investigation, the officer has reasonable cause to

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38 believe that the person has committed a civil infraction in
39 violation of s. 569.11 or s. 569.42, as applicable.

40 (4) A citation issued to any person violating the
41 provisions of s. 569.11 or s. 569.42 shall be in a form
42 prescribed by the Division of Alcoholic Beverages and Tobacco of
43 the Department of Business and Professional Regulation and shall
44 contain:

45 (a) The date and time of issuance.

46 (b) The name and address of the person to whom the
47 citation is issued.

48 (c) The date and time the civil infraction was committed.

49 (d) The facts constituting reasonable cause.

50 (e) The number of the Florida statute violated.

51 (f) The name and authority of the citing officer.

52 (g) The procedure for the person to follow in order to
53 contest the citation, perform the required community service,
54 attend the required anti-tobacco or anti-tobacco and anti-
55 nicotine program, or to pay the civil penalty.

56 Section 9. Subsections (2) and (4) of section 569.14,
57 Florida Statutes, are amended to read:

58 569.14 Posting of a sign stating that the sale of tobacco
59 products to persons under 18 years of age is unlawful;
60 enforcement; penalty.-

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61 (2) A dealer that sells tobacco products ~~and nicotine~~
62 ~~products or nicotine dispensing devices, as defined in s.~~
63 ~~877.112,~~ may use a sign that substantially states the following:

64
65 THE SALE OF TOBACCO PRODUCTS, ~~NICOTINE PRODUCTS, OR NICOTINE~~
66 ~~DISPENSING DEVICES~~ TO PERSONS UNDER THE AGE OF 18 IS AGAINST
67 FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

68
69 A dealer that uses a sign as described in this subsection meets
70 the signage requirements of subsection (1) ~~and s. 877.112.~~

71 (4) Any dealer that sells tobacco products shall provide
72 at the checkout counter in a location clearly visible to the
73 dealer or the dealer's agent or employee instructional material
74 in a calendar format or similar format to assist in determining
75 whether a person is of legal age to purchase tobacco products.
76 This point of sale material must contain substantially the
77 following language:

78 IF YOU WERE NOT BORN BEFORE THIS DATE
79 (insert date and applicable year)
80 YOU CANNOT BUY TOBACCO PRODUCTS.

81 Upon approval by the division, in lieu of a calendar a dealer
82 may use card readers, scanners, or other electronic or automated
83 systems that can verify whether a person is of legal age to
84 purchase tobacco products. Failure to comply with the provisions

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85 contained in this subsection shall result in imposition of
86 administrative penalties as provided in s. 569.006.

87 Section 10. Section 569.19, Florida Statutes, is amended
88 to read:

89 569.19 Annual report.—The division shall report annually
90 with written findings to the Legislature and the Governor by
91 December 31, on the progress of implementing the enforcement
92 provisions of this part ~~chapter~~. This must include, but is not
93 limited to:

94 (1) The number and results of compliance visits.

95 (2) The number of violations for failure of a retailer to
96 hold a valid license.

97 (3) The number of violations for selling tobacco products
98 to persons under age 18, and the results of administrative
99 hearings on the above and related issues.

100 (4) The number of persons under age 18 cited for
101 violations of s. 569.11 and sanctions imposed as a result of
102 citation.

103 Section 11. Section 569.31, Florida Statutes, is created
104 to read:

105 569.31 Definitions.—As used in this part, the term:

106 (1) "Dealer" is synonymous with the term "retail nicotine
107 products dealer."

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108 (2) "Division" means the Division of Alcoholic Beverages
109 and Tobacco of the Department of Business and Professional
110 Regulation.

111 (3) "Nicotine dispensing device" means any product that
112 employs an electronic, chemical, or mechanical means to produce
113 vapor or aerosol from a nicotine product, including, but not
114 limited to, an electronic cigarette, electronic cigar,
115 electronic cigarillo, electronic pipe, or other similar device
116 or product, any replacement cartridge for such device, and any
117 other container of nicotine in a solution or other form intended
118 to be used with or within an electronic cigarette, electronic
119 cigar, electronic cigarillo, electronic pipe, or other similar
120 device or product.

121 (4) "Nicotine product" means any product that contains
122 nicotine, including liquid nicotine, which is intended for human
123 consumption, whether inhaled, chewed, absorbed, dissolved, or
124 ingested by any means. The term also includes any nicotine
125 dispensing device. The term does not include a:

126 (a) Tobacco product, as defined in s. 569.002;

127 (b) Product regulated as a drug or device by the United
128 States Food and Drug Administration under Chapter V of the
129 Federal Food, Drug, and Cosmetic Act; or

130 (c) Product that contains incidental nicotine.

131 (5) "Permit" is synonymous with the term "retail nicotine
132 products dealer permit."

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133 (6) "Retail nicotine products dealer" means the holder of
134 a retail nicotine products dealer permit.

135 (7) "Retail nicotine products dealer permit" means a
136 permit issued by the division under s. 569.32.

137 (8) "Self-service merchandising" means the open display of
138 nicotine products, whether packaged or otherwise, for direct
139 retail customer access and handling before purchase without the
140 intervention or assistance of the retailer or the retailer's
141 owner, employee, or agent. An open display of such products and
142 devices includes the use of an open display unit.

143 (9) "Any person under the age of 21" does not include any
144 person under the age of 21 who:

145 (a) Has had his or her disability of nonage removed under
146 chapter 743;

147 (b) Is in the military reserve or on active duty in the
148 Armed Forces of the United States;

149 (c) Is otherwise emancipated by a court of competent
150 jurisdiction and released from parental care and responsibility;

151 or

152 (d) Is acting in his or her scope of lawful employment.

153 Section 12. Section 569.32, Florida Statutes, is created
154 to read:

155 569.32 Retail nicotine products dealer permits;
156 application; qualifications; renewal; duplicates.-

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157 (1) (a) Each person, firm, association, or corporation that
158 seeks to deal, at retail, in nicotine products within the state,
159 or to allow a nicotine products vending machine to be located on
160 its premises in the state, must obtain a retail nicotine
161 products dealer permit for each place of business or the
162 premises at which nicotine products are sold. Each dealer
163 owning, leasing, furnishing, or operating vending machines
164 through which nicotine products are sold must obtain a permit
165 for each machine and shall post the permit in a conspicuous
166 place on or near the machine; however, if the dealer has more
167 than one vending machine at a single location or if nicotine
168 products are sold both over the counter and through a vending
169 machine at a single location, the dealer need obtain only one
170 permit for that location.

171 (b) Application for a permit must be made on a form
172 furnished by the division and must set forth the name under
173 which the applicant transacts or intends to transact business,
174 the address of the location of the applicant's place of business
175 within the state, and any other information the division
176 requires. If the applicant has or intends to have more than one
177 place of business dealing in nicotine products within the state,
178 a separate application must be made for each place of business.
179 If the applicant is a firm or an association, the application
180 must set forth the names and addresses of the persons
181 constituting the firm or association; if the applicant is a

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182 corporation, the application must set forth the names and
183 addresses of the principal officers of the corporation. The
184 application must also set forth any other information prescribed
185 by the division for the purpose of identifying the applicant
186 firm, association, or corporation. The application must be
187 signed and verified by oath or affirmation by the owner, if a
188 sole proprietor, or, if the owner is a firm, association, or
189 partnership, by the members or partners thereof, or, if the
190 owner is a corporation, by an executive officer of the
191 corporation or by a person authorized by the corporation to sign
192 the application, together with the written evidence of this
193 authority.

194 (2) (a) Permits may be issued only to persons who are 21
195 years of age or older or to corporations the officers of which
196 are 21 years of age or older.

197 (b) The division may refuse to issue a permit to any
198 person, firm, association, or corporation the permit of which
199 has been revoked, to any corporation an officer of which has had
200 his or her permit revoked, or to any person who is or has been
201 an officer of a corporation the permit of which has been
202 revoked. Any permit issued to a firm, association, or
203 corporation prohibited from obtaining a permit under this
204 chapter shall be revoked by the division.

205 (3) Upon approval of an application for a permit, the
206 division shall issue to the applicant a permit for the place of

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207 business or premises specified in the application. A permit is
208 not assignable and is valid only for the person in whose name
209 the permit is issued and for the place designated in the permit.
210 The permit shall be conspicuously displayed at all times at the
211 place for which issued.

212 Section 13. Section 569.33 Florida Statutes, is created to
213 read:

214 569.33 Consent to inspection and search without warrant.-
215 An applicant for a retail nicotine products dealer permit, by
216 accepting the permit when issued, agrees that the place or
217 premises covered by the permit is subject to inspection and
218 search without a search warrant by the division or its
219 authorized assistants, and by sheriffs, deputy sheriffs, or
220 police officers, to determine compliance with this part.

221 Section 14. Section 569.34, Florida Statutes, is created
222 to read:

223 569.34 Operating without a retail nicotine products dealer
224 permit; penalty.-

225 (1) It is unlawful for a person, firm, association, or
226 corporation to deal, at retail, in nicotine products, in any
227 manner, or to allow a nicotine products vending machine to be
228 located on its premises, without having a retail nicotine
229 product dealer permit as required by s. 569.32. A person who
230 violates this section commits a noncriminal violation,
231 punishable by a fine of not more than \$500.

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232 (2) A retail tobacco products dealer, as defined in s.
233 569.002, is not required to have a separate or additional retail
234 nicotine products dealer permit to deal, at retail, nicotine
235 products in the state, or allow a nicotine products vending
236 machine to be located on its premises in the state. Any retail
237 tobacco products dealer that deals, at retail, in nicotine
238 products or allows a tobacco products vending machine to be
239 located on its premises in the state, is subject to, and must be
240 in compliance with, this part.

241 (3) Any person who violates this section shall be cited
242 for such infraction and shall be cited to appear before the
243 county court. The citation may indicate the time, date, and
244 location of the scheduled hearing and must indicate that the
245 penalty for a noncriminal violation is a fine of not more than
246 \$500.

247 (a) A person cited for an infraction under this section
248 may:

249 1. Post a \$500 bond; or
250 2. Sign and accept the citation indicating a promise to
251 appear.

252 (b) A person cited for violating this section may:

253 1. Pay the fine, either by mail or in person, within 10
254 days after receiving the citation; or
255 2. If the person has posted bond, forfeit the bond by not
256 appearing at the scheduled hearing.

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257 (c) If the person pays the fine or forfeits bond, the
258 person is deemed to have admitted violating this section and to
259 have waived the right to a hearing on the issue of commission of
260 the violation. Such admission may not be used as evidence in any
261 other proceeding.

262 (d) The court, after a hearing, shall make a determination
263 as to whether an infraction has been committed. If the
264 commission of an infraction has been proven beyond a reasonable
265 doubt, the court may impose a civil penalty in an amount that
266 may not exceed \$500.

267 (e) If a person is found by the court to have committed
268 the infraction, that person may appeal that finding to the
269 circuit court.

270 Section 15. Section 569.35, Florida Statutes, is created
271 to read:

272 569.35 Retail nicotine product dealers; administrative
273 penalties.—The division may suspend or revoke the permit of a
274 dealer, including the retail tobacco products dealer permit of a
275 retail tobacco products dealer as defined in s. 569.002, upon
276 sufficient cause appearing of the violation of any of the
277 provisions of this part, by a dealer, or by a dealer's agent or
278 employee. The division may also assess and accept an
279 administrative fine of up to \$1,000 against a dealer for each
280 violation. The division shall deposit all fines collected into
281 the General Revenue Fund as collected. An order imposing an

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282 administrative fine becomes effective 15 days after the date of
283 the order. The division may suspend the imposition of a penalty
284 against a dealer, conditioned upon the dealer's compliance with
285 terms the division considers appropriate.

286 Section 16. Section 569.37, Florida Statutes, is created
287 to read:

288 569.37 Sale or delivery of nicotine products;
289 restrictions.-

290 (1) In order to prevent persons under the age of 21 from
291 purchasing or receiving nicotine products, the sale or delivery
292 of nicotine products is prohibited, except:

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

295 (b) Sales from a vending machine are prohibited under
296 paragraph (a) and are only permissible from a machine that is
297 equipped with an operational lockout device that is under the
298 control of the dealer or the dealer's agent or employee who
299 directly regulates the sale of items through the machine by
300 triggering the lockout device to allow the dispensing of one
301 nicotine product. The lockout device must include a mechanism to
302 prevent the machine from functioning if the power source for the
303 lockout device fails or if the lockout device is disabled, and a
304 mechanism to ensure that only one nicotine product is dispensed
305 at a time.

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306 (2) (a) A dealer that sells nicotine products may not sell,
307 permit to be sold, offer for sale, or display for sale such
308 products or devices by means of self-service merchandising.

309 (b) A dealer that sells nicotine products may not place
310 such products or devices in an open display unit unless the unit
311 is located in an area that is inaccessible to customers.

312 (3) The provisions of subsections (1) and (2) shall not
313 apply to an establishment that prohibits persons under the age
314 of 21 on the licensed premises.

315 (4) A dealer or a dealer's agent or employee may require
316 proof of age of a purchaser of a nicotine product before selling
317 the product or device to that person.

318 Section 17. Section 569.38, Florida Statutes, is created
319 to read:

320 569.38 Gift of sample nicotine products and nicotine
321 dispensing devices.—The gift of sample nicotine products to any
322 person under the age of 21 by an entity permitted under this
323 chapter, or by an employee of such entity, is prohibited and is
324 punishable as provided in s. 569.41.

325 Section 18. Section 569.381, Florida Statutes, is created
326 to read:

327 569.381 Responsible retail nicotine products dealers;
328 qualifications; mitigation of disciplinary penalties; diligent
329 management and supervision; presumption.—

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330 (1) It is the intent of the Legislature to prevent the
331 sale of nicotine products to persons under the age of 21 and to
332 encourage retail nicotine products dealers to comply with
333 responsible practices in accordance with this section.

334 (2) To qualify as a responsible retail nicotine products
335 dealer, the dealer must establish and implement procedures
336 designed to ensure that the dealer's employees comply with this
337 part. The dealer must provide a training program for the
338 dealer's employees which addresses the use and sale of nicotine
339 products and which includes at least the following topics:

340 (a) Laws covering the sale of nicotine products.

341 (b) Methods of recognizing and handling customers under
342 the age of 21.

343 (c) Procedures for proper examination of identification
344 cards in order to verify that customers are not under the age of
345 21.

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

348 (3) In determining penalties under s. 569.35, the division
349 may mitigate penalties imposed against a dealer because of an
350 employee's illegal sale of a nicotine product to a person under
351 the age of 21 if the following conditions are met:

352 (a) The dealer is qualified as a responsible dealer under
353 this section.

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354 (b) The dealer provided the training program required
355 under subsection (2) to that employee before the illegal sale
356 occurred.

357 (c) The dealer did not have knowledge of that employee's
358 violation at the time of the violation and did not direct,
359 approve, or participate in the violation.

360 (d) If the sale was made through a vending machine, the
361 machine was equipped with an operational lock-out device.

362 (4) The division shall develop and make available a model
363 nicotine products training program designed to ensure adherence
364 to this chapter by dealers and their employees which, if
365 followed, will qualify dealers as responsible dealers.

366 (5) Dealers shall exercise diligence in the management and
367 supervision of their premises and in the supervision and
368 training of their employees, agents, or servants. In proceedings
369 to impose penalties under s. 569.35, proof that employees,
370 agents, or servants of the dealer, while in the scope of their
371 employment, committed at least three violations of s. 569.41
372 during a 180-day period shall be prima facie evidence of a lack
373 of due diligence by the dealer in the management and supervision
374 of his or her premises and in the supervision and training of
375 employees, agents, officers, or servants.

376 (6) The division may consider qualification as a
377 responsible retail nicotine products dealer under this section

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378 as evidence that the dealer properly exercised the diligence
379 required under this section.

380 Section 19. Section 569.39, Florida Statutes, is created
381 to read:

382 569.39 Rulemaking authority.—The division shall adopt any
383 rules necessary to administer and enforce the provisions of this
384 part.

385 Section 20. Section 569.41, Florida Statutes, is created
386 to read:

387 569.41 Selling, delivering, bartering, furnishing, or
388 giving nicotine products to persons under the age of 21;
389 criminal penalties; defense.—

390 (1) It is unlawful to sell, deliver, barter, furnish, or
391 give, directly or indirectly, to any person who is under the age
392 of 21, any nicotine product.

393 (2) Any person who violates subsection (1) commits a
394 misdemeanor of the second degree, punishable as provided in s.
395 775.082 or s. 775.083. However, any person who violates
396 subsection (1) for a second or subsequent time within 1 year
397 after the first violation commits a misdemeanor of the first
398 degree, punishable as provided in s. 775.082 or s. 775.083.

399 (3) A person charged with a violation of subsection (1)
400 has a complete defense if, at the time the nicotine product was
401 sold, delivered, bartered, furnished, or given:

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402 (a) The buyer or recipient falsely evidenced that she or
403 he was 21 years of age or older;

404 (b) The appearance of the buyer or recipient was such that
405 a prudent person would believe the buyer or recipient to be 21
406 years of age or older; and

407 (c) Such person carefully checked a driver license or an
408 identification card issued by the state or another state of the
409 United States, a passport, or a United States armed services
410 identification card presented by the buyer or recipient and
411 acted in good faith and in reliance upon the representation and
412 appearance of the buyer or recipient in the belief that the
413 buyer or recipient was 21 years of age or older.

414 Section 21. Section 569.42, Florida Statutes, is created
415 to read:

416 569.42 Possession, misrepresenting age or military service
417 to purchase, and purchase of nicotine products by persons under
418 the age of 21 prohibited; penalties; jurisdiction; disposition
419 of fines.—

420 (1) It is unlawful for any person under the age of 21 to
421 knowingly possess any nicotine product. Any person under the age
422 of 21 who violates this subsection commits a noncriminal
423 violation as provided in s. 775.08(3), punishable by:

424 (a) For a first violation, 16 hours of community service
425 or, instead of community service, a \$25 fine. In addition, the

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426 person must attend a school-approved anti-tobacco and anti-
427 nicotine program, if locally available; or

428 (b) For a second or subsequent violation within 12 weeks
429 after the first violation, a \$25 fine.

430

431 Any second or subsequent violation not within the 12-week period
432 after the first violation is punishable as provided for a first
433 violation.

434 (2) It is unlawful for any person under the age of 21 to
435 misrepresent his or her age or military service for the purpose
436 of inducing a dealer or an agent or employee of the dealer to
437 sell, give, barter, furnish, or deliver any nicotine product, or
438 to purchase, or attempt to purchase, any nicotine product from a
439 person or a vending machine. Any person under the age of 21 who
440 violates this subsection commits a noncriminal violation as
441 defined in s. 775.08(3), punishable by:

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

446 (b) For a second or subsequent violation within 12 weeks
447 after the first violation, a \$25 fine.

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449 Any second or subsequent violation not within the 12-week period
450 after the first violation is punishable as provided for a first
451 violation.

452 (3) Any person under the age of 21 cited for committing a
453 noncriminal violation under this section must sign and accept a
454 civil citation indicating a promise to appear before the county
455 court or comply with the requirement for paying the fine and
456 must attend a school-approved anti-tobacco and anti-nicotine
457 program, if locally available. If a fine is assessed for a
458 violation of this section, the fine must be paid within 30 days
459 after the date of the citation or, if a court appearance is
460 mandatory, within 30 days after the date of the hearing.

461 (4) A person charged with a noncriminal violation under
462 this section must appear before the county court or comply with
463 the requirement for paying the fine. The court, after a hearing,
464 shall make a determination as to whether the noncriminal
465 violation was committed. If the court finds the violation was
466 committed, it shall impose an appropriate penalty as specified
467 in subsection (1) or subsection (2). A person who participates
468 in community service shall be considered an employee of the
469 state for the purpose of chapter 440, for the duration of such
470 service.

471 (5) (a) If a person under the age of 21 is found by the
472 court to have committed a noncriminal violation under this
473 section and the person has failed to complete community service,

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474 pay the fine as required by paragraph (1) (a) or paragraph
475 (2) (a), or attend a school-approved anti-tobacco and anti-
476 nicotine program, if locally available, the court may direct the
477 Department of Highway Safety and Motor Vehicles to withhold
478 issuance of or suspend the driver license or driving privilege
479 of that person for a period of 30 consecutive days.

480 (b) If a person under the age of 21 is found by the court
481 to have committed a noncriminal violation under this section and
482 that person has failed to pay the applicable fine as required by
483 paragraph (1) (b) or paragraph (2) (b), the court may direct the
484 Department of Highway Safety and Motor Vehicles to withhold
485 issuance of or suspend the driver license or driving privilege
486 of that person for a period of 45 consecutive days.

487 (6) Eighty percent of all civil penalties received by a
488 county court under this section shall be remitted by the clerk
489 of the court to the Department of Revenue for transfer to the
490 Department of Education to provide for teacher training and for
491 research and evaluation to reduce and prevent the use of
492 nicotine products by children. The remaining 20 percent of civil
493 penalties received by a county court under this section shall
494 remain with the clerk of the county court to cover
495 administrative costs.

496 Section 22. Section 569.43, Florida Statutes, is created
497 to read:

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498 569.43 Posting of a sign stating that the sale of nicotine
499 products to persons under the age of 21 is unlawful;
500 enforcement; penalty.-

501 (1) A dealer that sells nicotine products shall post a
502 clear and conspicuous sign in each place of business at which
503 such products are sold which substantially states the following:

504
505 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING
506 DEVICES TO PERSONS UNDER THE AGE OF 21 IS AGAINST
507 FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

508
509 (2) The division shall make available to dealers of
510 nicotine products signs that meet the requirements of subsection
511 (1).

512 (3) Any dealer that sells nicotine products shall provide
513 at the checkout counter in a location clearly visible to the
514 dealer or the dealer's agent or employee instructional material
515 in a calendar format or similar format to assist in determining
516 whether a person is of legal age to purchase nicotine products.
517 This point of sale material must contain substantially the
518 following language:

519
520 IF YOU WERE NOT BORN BEFORE THIS DATE

521 (insert date and applicable year)

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522 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR NICOTINE
523 DISPENSING DEVICES.

524
525 Upon approval by the division, in lieu of a calendar a dealer
526 may use card readers, scanners, or other electronic or automated
527 systems that can verify whether a person is of legal age to
528 purchase nicotine products. Failure to comply with the
529 provisions contained in this subsection shall result in
530 imposition of administrative penalties as provided in s. 569.35.

531 (4) The division, through its agents and inspectors, shall
532 enforce this section.

533 (5) Any person who fails to comply with subsection (1)
534 commits a misdemeanor of the second degree, punishable as
535 provided in s. 775.082 or s. 775.083.

536 Section 23. Section 569.44, Florida Statutes, is created
537 to read:

538 569.44 Annual report.—The division shall report annually
539 with written findings to the Legislature and the Governor by
540 December 31, on the progress of implementing the enforcement
541 provisions of this part. This must include, but is not limited
542 to:

543 (1) The number and results of compliance visits.

544 (2) The number of violations for failure of a retailer to
545 hold a valid permit.

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546 (3) The number of violations for selling nicotine products
547 to persons under the age of 21, and the results of
548 administrative hearings on the above and related issues.

549 (4) The number of persons under the age of 21 cited for
550 violations of s. 569.42 and sanctions imposed as a result of
551 citation.

552 Section 24. Section 569.45, Florida Statutes, is created
553 to read:

554 569.45 Mail order, Internet, and remote sales of nicotine
555 products; age verification.-

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

557 (a) "Adult" means an individual who is at least of the
558 legal minimum purchase age for nicotine products.

559 (b) "Consumer" means a person in the state who comes into
560 possession of any nicotine product who, at the time of
561 possession, is not intending to sell or distribute the nicotine
562 product, or is a retailer.

563 (c) "Delivery sale" means any sale of nicotine products to
564 a consumer in the state for which:

565 1. The consumer submits the order for the sale by
566 telephonic or other voice transmission, mail, delivery service,
567 or the Internet or other online service; or

568 2. The nicotine products are delivered by use of mail or a
569 delivery service.

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570 (d) "Delivery service" means any person engaged in the
571 commercial delivery of letters, packages, or other containers.

572 (e) "Legal minimum purchase age" means the minimum age at
573 which an individual may legally purchase nicotine products in
574 the state.

575 (f) "Retailer" means any person who is required to obtain
576 a retail nicotine products dealer permit or a retail tobacco
577 products dealer permit, as defined in s. 569.002.

578 (g) "Shipping container" means a container in which
579 nicotine products are shipped in connection with a delivery
580 sale.

581 (h) "Shipping document" means a bill of lading, airbill,
582 United States Postal Service form, or any other document used to
583 verify the undertaking by a delivery service to deliver letters,
584 packages, or other containers.

585 (2) (a) A sale of nicotine products constituting a delivery
586 sale under paragraph (1) (c) is a delivery sale regardless of
587 whether the person accepting the order for the delivery sale is
588 located inside or outside the state.

589 (b) A retailer must obtain a retail nicotine products
590 dealer permit or a retail tobacco products dealer permit, as
591 defined in s. 569.002, from the division under the requirements
592 of this chapter before accepting an order for a delivery sale.

593 (c) A person may not make a delivery sale of nicotine
594 products to any individual who is not an adult.

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595 (d) Each person accepting an order for a delivery sale
596 must comply with each of the following:

597 1. The age verification requirements set forth in
598 subsection (3).

599 2. The disclosure requirements set forth in subsection
600 (4).

601 3. The shipping requirements set forth in subsection (5).

602 (3) A person may not mail, ship, or otherwise deliver
603 nicotine products in connection with an order for a delivery
604 sale unless, before the first delivery to the consumer, the
605 person accepting the order for the delivery sale:

606 (a) Obtains from the person submitting the order a
607 certification that includes:

608 1. Reliable confirmation that the person is an adult; and

609 2. A statement signed by the person in writing and under
610 penalty of perjury which:

611 a. Certifies the address and date of birth of the person;
612 and

613 b. Confirms that the person wants to receive delivery
614 sales from a nicotine products company and understands that,
615 under the laws of the state, the following actions are illegal:

616 (I) Signing another person's name to the certification;

617 (II) Selling nicotine products to individuals who are not
618 adults; and

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619 (III) Purchasing nicotine products, if the person making
620 the purchase is not an adult.

621 (b) Makes a good faith effort to verify the information
622 contained in the certification provided by the individual under
623 paragraph (a) against a commercially available database that may
624 be reasonably relied upon for accurate age information or
625 obtains a photocopy or other image of a valid government-issued
626 identification card stating the date of birth or age of the
627 individual.

628 (c) Provides to the individual, via electronic mail or
629 other means, a notice meeting the requirements of subsection
630 (4).

631 (d) If an order for nicotine products is made pursuant to
632 an advertisement on the Internet, receives payment for the
633 delivery sale from the consumer by a credit or debit card issued
634 in the name of the consumer, or by personal or company check of
635 the consumer.

636 (e) The person accepting the order for delivery sale shall
637 submit, to each credit card acquiring company with which the
638 person has credit card sales, identification information in an
639 appropriate form and format so that the words "nicotine product"
640 may be printed in the purchaser's credit card statement when a
641 purchase of a nicotine product is made by credit card payment.

642 (f) Makes a telephone call after 5 p.m. to the purchaser
643 confirming the order before shipping the nicotine products. The

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644 telephone call may be a person-to-person call or a recorded
645 message. The person accepting the order for delivery sale is not
646 required to speak directly with a person and may leave a message
647 on an answering machine or through voice mail.

648

649 In addition to the requirements of this subsection, a person
650 accepting an order for a delivery sale may request that a
651 consumer provide an electronic mail address.

652 (4) The notice described in paragraph (3)(c) must include
653 prominent and clearly legible statements that sales of nicotine
654 products are:

655 (a) Illegal if made to individuals who are not adults.

656 (b) Restricted to those individuals who provide verifiable
657 proof of age in accordance with subsection (3).

658 (5) Each person who mails, ships, or otherwise delivers
659 nicotine products in connection with an order for a delivery
660 sale must:

661 (a) Include as part of the shipping documents, in a clear
662 and conspicuous manner, the following statement: "Nicotine
663 Products: Florida law prohibits shipping to individuals under
664 the age of 21."

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

667 1. The individual submitting the order for the delivery
668 sale or another adult who resides at the individual's address to

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669 sign his or her name to accept delivery of the shipping
670 container. Proof of the legal minimum purchase age of the
671 individual accepting delivery is required only if the individual
672 appears to be under 27 years of age.

673 2. Proof that the individual is either the addressee or
674 the adult designated by the addressee, in the form of a valid,
675 government-issued identification card bearing a photograph of
676 the individual who signs to accept delivery of the shipping
677 container.

678
679 If the person accepting a purchase order for a delivery sale
680 delivers the nicotine products without using a delivery service,
681 the person must comply with all of the requirements of this
682 section which apply to a delivery service. Any failure to comply
683 with a requirement of this section constitutes a violation
684 thereof.

685 (6) This section does not apply to delivery sales of
686 nicotine products to a retail nicotine products dealer or a
687 retail tobacco products dealer, as defined in s. 569.002.

688 (7) An adult who knowingly violates any provision of this
689 section commits a misdemeanor of the second degree, punishable
690 as provided in s. 775.082 or s. 775.083.

691 (8) The Attorney General, the Attorney General's designee,
692 or a state attorney may bring an action in the appropriate court

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693 | in the state to prevent or restrain violations of this section
694 | by any person.

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