

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Toledo offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Subsection (1), paragraphs (a) and (c) of subsection (2), paragraph (a) of subsection (3), paragraph (a) of subsection (4), paragraphs (a) and (b) of subsection (5), and paragraphs (a), (b), (e), and (g) of subsection (8) of section 210.095, Florida Statutes, are amended to read:

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

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

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

16 ~~(a)-(b)~~ "Consumer" means a person in this state who comes  
17 into possession of any tobacco product subject to the tax  
18 imposed by this chapter and who, at the time of possession, is  
19 not a distributor intending to sell or distribute the tobacco  
20 product, a retailer, or a wholesaler.

21 ~~(b)-(e)~~ "Delivery sale" means any sale of tobacco products  
22 to a consumer in this state for which:

23 1. The consumer submits the order for the sale by  
24 telephonic or other voice transmission, mail, delivery service,  
25 or the Internet or other online service; or

26 2. The tobacco products are delivered by use of mail or a  
27 delivery service.

28 ~~(c)-(d)~~ "Delivery service" means any person engaged in the  
29 commercial delivery of letters, packages, or other containers.

30 ~~(d)-(e)~~ "Legal minimum purchase age" means the minimum age  
31 at which an individual may legally purchase tobacco products in  
32 this state.

33 ~~(e)-(f)~~ "Mail" or "mailing" means the shipment of tobacco  
34 products through the United States Postal Service.

35 ~~(f)-(g)~~ "Retailer" means any person who is not a licensed  
36 distributor but who is in possession of tobacco products subject  
37 to tax under this chapter for the purposes of selling the  
38 tobacco products to consumers.

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39        ~~(g)-(h)~~ "Shipping container" means a container in which  
40 tobacco products are shipped in connection with a delivery sale.

41        ~~(h)-(i)~~ "Shipping document" means a bill of lading,  
42 airbill, United States Postal Service form, or any other  
43 document used to verify the undertaking by a delivery service to  
44 deliver letters, packages, or other containers.

45        ~~(i)-(j)~~ "Tobacco products" means all cigarettes, smoking  
46 tobacco, snuff, fine-cut chewing tobacco, cut and granulated  
47 tobacco, cavendish, and plug or twist tobacco.

48        (2)

49        (a) A sale of tobacco products constituting a delivery  
50 sale pursuant to paragraph (1) (b) ~~(1)(e)~~ is a delivery sale  
51 regardless of whether the person accepting the order for the  
52 delivery sale is located inside or outside this state.

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

56        (3) A person may not mail, ship, or otherwise deliver  
57 tobacco products in connection with an order for a delivery sale  
58 unless, before the first delivery to the consumer, the person  
59 accepting the order for the delivery sale:

60        (a) Obtains from the individual submitting the order a  
61 certification that includes:

62        1. Reliable confirmation that the individual is 21 years  
63 of age or older ~~an adult~~; and

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64 2. A statement signed by the individual in writing and  
65 under penalty of perjury which:

66 a. Certifies the address and date of birth of the  
67 individual; and

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

71 (I) Signing another individual's name to the  
72 certification;

73 (II) Selling tobacco products to individuals under the  
74 legal minimum purchase age; and

75 (III) Purchasing tobacco products, if the person making  
76 the purchase is under the legal minimum purchase age.

77  
78 In addition to the requirements of this subsection, a person  
79 accepting an order for a delivery sale may request that a  
80 consumer provide an electronic mail address.

81 (4) The notice described in paragraph (3)(c) must include  
82 prominent and clearly legible statements that sales of tobacco  
83 products are:

84 (a) Illegal if made to individuals who are not 21 years of  
85 age or older adults.

86  
87 The notice must include an explanation of how each tax has been,  
88 or is to be, paid with respect to the delivery sale.

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

92 (a) Include as part of the shipping documents, in a clear  
93 and conspicuous manner, the following statement: "Tobacco  
94 Products: Florida law prohibits shipping to individuals under 21  
95 ~~18~~ years of age and requires the payment of all applicable  
96 taxes."

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

99 1. The individual submitting the order for the delivery  
100 sale or another individual who is 21 years of age or older ~~adult~~  
101 who resides at the individual's address to sign his or her name  
102 to accept delivery of the shipping container. Proof of the legal  
103 minimum purchase age of the individual accepting delivery is  
104 required only if the individual appears to be under 30 ~~27~~ years  
105 of age.

106 2. Proof that the individual is either the addressee or  
107 the individual who is 21 years of age or older ~~adult~~ designated  
108 by the addressee, in the form of a valid, government-issued  
109 identification card bearing a photograph of the individual who  
110 signs to accept delivery of the shipping container.

111  
112 If the person accepting a purchase order for a delivery sale  
113 delivers the tobacco products without using a delivery service,

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114 the person must comply with all of the requirements of this  
115 section which apply to a delivery service. Any failure to comply  
116 with a requirement of this section constitutes a violation  
117 thereof.

118 (8) (a) Except as otherwise provided in this section, a  
119 violation of this section by a person other than an individual  
120 who is not 21 years of age or older ~~an adult~~ is a misdemeanor of  
121 the first degree, punishable as provided in s. 775.082 or s.  
122 775.083, and:

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

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

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

137 (e) A person who, in connection with a delivery sale,  
138 delivers tobacco products on behalf of a delivery service to an

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139 individual who is not 21 years of age or older ~~an adult~~ commits  
140 a misdemeanor of the third degree, punishable as provided in s.  
141 775.082 or s. 775.083.

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

146 Section 2. Paragraph (b) of subsection (1) of section  
147 210.15, Florida Statutes, is amended to read:

148 210.15 Permits.—

149 (1)

150 (b) Permits shall be issued only to persons of good moral  
151 character, who are not less than 21 ~~18~~ years of age. Permits to  
152 corporations shall be issued only to corporations whose officers  
153 are of good moral character and not less than 21 ~~18~~ years of  
154 age. There shall be no exemptions from the permit fees herein  
155 provided to any persons, association of persons, or corporation,  
156 any law to the contrary notwithstanding.

157 Section 3. Subsections (1) and (3) of section 386.212,  
158 Florida Statutes, are amended to read:

159 386.212 Smoking and vaping prohibited near school  
160 property; penalty.—

161 (1) It is unlawful for any person under 21 ~~18~~ years of age  
162 to smoke tobacco or vape in, on, or within 1,000 feet of the  
163 real property comprising a public or private elementary, middle,

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164 or secondary school ~~between the hours of 6 a.m. and midnight.~~  
165 This section does not apply to any person occupying a moving  
166 vehicle or within a private residence.

167 (3) Any person issued a citation pursuant to this section  
168 shall be deemed to be charged with a civil infraction punishable  
169 by a maximum civil penalty not to exceed \$25, or 50 hours of  
170 community service and, for persons under 18 years of age or,  
171 ~~where available,~~ successful completion of a school-approved  
172 anti-tobacco or anti-vaping "alternative to suspension" program.

173 Section 4. Subsections (3) through (6) of section 569.002,  
174 Florida Statutes, are renumbered as subsections (4) through (7),  
175 respectively, present subsections (6) and (7) are amended, a new  
176 subsection (3) is added to that section, to read:

177 569.002 Definitions.—As used in this chapter, the term:

178 (3) "Liquid nicotine product" means a tobacco product in  
179 liquid form composed of nicotine and other chemicals or  
180 substances which is sold or offered for sale for use with a  
181 vapor-generating electronic device.

182 (7)(6) "Tobacco products" includes:

183 (a) Loose tobacco leaves, and products made from tobacco  
184 leaves, in whole or in part, and cigarette wrappers, which can  
185 be used for smoking, sniffing, or chewing; and

186 (b) Any nicotine product or vapor-generating electronic  
187 device.

188 1. For the purposes of this paragraph, the term:

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189        a. "Vapor-generating electronic device" means any product  
190 that employs an electronic, chemical, or mechanical means  
191 capable of producing vapor or aerosol from a nicotine product or  
192 any other substance, including, but not limited to, an  
193 electronic cigarette, electronic cigar, electronic cigarillo,  
194 electronic pipe, or other similar device or product; any  
195 replacement cartridge for such device; and any other container  
196 of nicotine in a solution or other substance form intended to be  
197 used with or within an electronic cigarette, an electronic  
198 cigar, an electronic cigarillo, an electronic pipe, a vape pen,  
199 an electronic hookah, or other similar device or product. The  
200 term includes any component, part, or accessory of the device  
201 and also includes any substance intended to be aerosolized or  
202 vaporized during the use of the device, whether or not the  
203 substance contains nicotine.

204        b. "Nicotine product" means any product that contains  
205 nicotine, including liquid nicotine, which is intended for human  
206 consumption, whether inhaled, chewed, absorbed, dissolved, or  
207 ingested by any means. The term includes vapor-generating  
208 electronic devices.

209        2. The terms "vapor-generating electronic device" and  
210 "nicotine product" do not include:

211        a. Tobacco products described in paragraph (a);

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212 b. Products regulated as a drug or device by the United  
213 States Food and Drug Administration under Chapter V of the  
214 Federal Food, Drug, and Cosmetic Act; or

215 c. Foods that contain incidental amounts of nicotine  
216 including, but not limited to, tomatoes, potatoes, eggplants,  
217 and cauliflower.

218 ~~(8)(7)~~ "Any person under the age of 21 ~~18~~" does not  
219 include any person under the age of 21 ~~18~~ who:

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

222 ~~(b) Is in the military reserve or on active duty in the~~  
223 ~~Armed Forces of the United States;~~

224 ~~(c) Is otherwise emancipated by a court of competent~~  
225 ~~jurisdiction and released from parental care and responsibility;~~  
226 ~~or~~

227 ~~(d) Is acting in his or her scope of lawful employment~~  
228 ~~with an entity licensed under the provisions of chapter 210 or~~  
229 ~~this chapter.~~

230 Section 5. Paragraphs (b) and (c) of subsection (1) and  
231 paragraph (a) of subsection (2) of section 569.003, Florida  
232 Statutes, are amended to read:

233 569.003 Retail tobacco products dealer permits;  
234 application; qualifications; fees; renewal; duplicates.—

235 (1)

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236 (b) Application for a permit must be made on a form  
237 furnished by the division and must set forth the name under  
238 which the applicant transacts or intends to transact business,  
239 the address of the location of the applicant's place of business  
240 within the state, and any other information the division  
241 requires. If the applicant has or intends to have more than one  
242 place of business dealing in tobacco products within this state,  
243 a separate application must be made for each place of business.  
244 If the applicant is a firm or an association, the application  
245 must set forth the names and addresses of the persons  
246 constituting the firm or association; if the applicant is a  
247 corporation, the application must set forth the names and  
248 addresses of the principal officers of the corporation. The  
249 application must also set forth any other information prescribed  
250 by the division for the purpose of identifying the applicant  
251 firm, association, or corporation. The application must be  
252 signed and verified by oath or affirmation by the owner, if a  
253 sole proprietor, or, if the owner is a firm, association, or  
254 partnership, by the members or partners thereof, or, if the  
255 owner is a corporation, by an executive officer of the  
256 corporation or by any person authorized by the corporation to  
257 sign the application, together with the written evidence of this  
258 authority. The application must be accompanied by the annual  
259 permit fee prescribed by the division. However, if an applicant  
260 indicates on the application that the applicant is only going to

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261 deal, at retail, in liquid nicotine products, nicotine products,  
262 or vapor-generating electronic devices, or a combination  
263 thereof, the division may not assess the annual permit fee and  
264 shall issue the applicant a limited retail tobacco products  
265 dealer permit upon the division's approval of the application.  
266 Such applicant may not deal, at retail, in tobacco products  
267 described in s. 569.002(7)(a) in this state. Any applicant that  
268 pays the annual permit fee for a retail tobacco products dealer  
269 permit may deal, at retail, in all tobacco products.

270 (c) Permits shall be issued annually, upon payment of the  
271 annual permit fee prescribed by the division. The division shall  
272 fix the fee in an amount sufficient to meet the costs incurred  
273 by it in carrying out its permitting, enforcement, and  
274 administrative responsibilities under this chapter, but the fee  
275 may not exceed \$50. The proceeds of the fee shall be deposited  
276 into the Alcoholic Beverage and Tobacco Trust Fund. However, the  
277 division may not fix or assess a fee for a limited retail  
278 tobacco products dealer permit.

279 (2)(a) Permits may be issued only to persons who are 21 ~~18~~  
280 years of age or older or to corporations the officers of which  
281 are 21 ~~18~~ years of age or older.

282 Section 6. Subsections (3), (4), and (5) of section  
283 569.007, Florida Statutes, are renumbered as subsections (2),  
284 (3), and (4), respectively, subsections (1) and (2) are amended,  
285 and a new subsection (5) is added to that section, to read:

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286 569.007 Sale or delivery of tobacco products;  
287 restrictions.—

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

291 1. ~~(a)~~ When under the direct control or line of sight of  
292 the dealer or the dealer's agent or employee; or

293 2. ~~(b)~~ Sales from a vending machine are prohibited under  
294 subparagraph 1. the provisions of paragraph (1) (a) and are only  
295 permissible from a machine that is located in an establishment  
296 that prohibits persons under 21 years of age on the licensed  
297 premises at all times.

298 (b) Sales of vapor-generating electronic devices and  
299 liquid nicotine products, other than as authorized under  
300 subparagraph (a)1., are permissible only if a dealer implements  
301 an age verification procedure that:

302 1. Before accepting an order for delivery, verifies that  
303 the purchaser is at least 21 years of age using a commercially  
304 available database, or an aggregate of databases, which is  
305 regularly used for the purpose of age and identity verification;  
306 and

307 2. Employs a second-step age verification to secure  
308 delivery for every order by requiring the signature of the  
309 purchaser upon delivery and verifying that the credit card or  
310 debit card used for the purchase has been issued in the

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311 purchaser's name and that the delivery address is associated  
312 with the purchaser's credit card or debit card ~~equipped with an~~  
313 ~~operational lockout device which is under the control of the~~  
314 ~~dealer or the dealer's agent or employee who directly regulates~~  
315 ~~the sale of items through the machine by triggering the lockout~~  
316 ~~device to allow the dispensing of one tobacco product. The~~  
317 ~~lockout device must include a mechanism to prevent the machine~~  
318 ~~from functioning if the power source for the lockout device~~  
319 ~~fails or if the lockout device is disabled, and a mechanism to~~  
320 ~~ensure that only one tobacco product is dispensed at a time.~~

321 ~~(2) The provisions of subsection (1) shall not apply to an~~  
322 ~~establishment that prohibits persons under 18 years of age on~~  
323 ~~the licensed premises.~~

324 (5) (a) A person may not sell, deliver, barter, furnish, or  
325 give, directly or indirectly, flavored liquid nicotine products  
326 to any other person. For the purposes of this subsection, the  
327 term "flavored liquid nicotine product" means a liquid nicotine  
328 product containing a natural or artificial constituent or  
329 additive that causes the liquid or its vapor to have a  
330 distinguishable taste or aroma other than tobacco or menthol,  
331 including, but not limited to, fruit, chocolate, vanilla, honey,  
332 candy, cocoa, a dessert, an alcoholic beverage, an herb or a  
333 spice, or any combination thereof.

334 (b) This subsection does not apply to the sale, shipment,  
335 or transport of any product that receives a marketing order

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336 issued by the United States Food and Drug Administration under  
337 21 U.S.C. s. 387j.

338 Section 7. Section 569.101, Florida Statutes, is amended  
339 to read:

340 569.101 Selling, delivering, bartering, furnishing, or  
341 giving tobacco products to persons under 21 ~~18~~ years of age;  
342 criminal penalties; defense.—

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

346 (2) Any person who violates subsection (1) commits a  
347 misdemeanor of the second degree, punishable as provided in s.  
348 775.082 or s. 775.083. However, any person who violates  
349 subsection (1) for a second or subsequent time within 1 year of  
350 the first violation, commits a misdemeanor of the first degree,  
351 punishable as provided in s. 775.082 or s. 775.083.

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

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

357 (b) The appearance of the buyer or recipient was such that  
358 a prudent person would believe the buyer or recipient to be 21  
359 ~~18~~ years of age or older; and

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360 (c) Such person carefully checked a driver license or an  
361 identification card issued by this state or another state of the  
362 United States, a passport, or a United States armed services  
363 identification card presented by the buyer or recipient and  
364 acted in good faith and in reliance upon the representation and  
365 appearance of the buyer or recipient in the belief that the  
366 buyer or recipient was 21 ~~18~~ years of age or older.

367 (4) A person must verify by means of identification  
368 specified in paragraph (3)(c) that a person purchasing a tobacco  
369 product is not under 21 years of age. Such verification is not  
370 required for any person over the age of 29.

371 Section 8. Section 569.11, Florida Statutes, is amended to  
372 read:

373 569.11 Possession, misrepresenting age ~~or military service~~  
374 to purchase, and purchase of tobacco products by persons under  
375 21 ~~18~~ years of age prohibited; penalties; jurisdiction;  
376 disposition of fines.—

377 (1) It is unlawful for any person under 21 ~~18~~ years of age  
378 to knowingly possess any tobacco product. Any person under 21 ~~18~~  
379 years of age who violates this subsection commits a noncriminal  
380 violation as provided in s. 775.08(3), punishable by:

381 (a) For a first violation, 16 hours of community service  
382 or, instead of community service, a \$25 fine. In addition, if  
383 the person is under 18 years of age, the person must attend a

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384 school-approved anti-vaping or anti-tobacco program, ~~if locally~~  
385 ~~available~~; or

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

388

389 Any second or subsequent violation not within the 12-week period  
390 after the first violation is punishable as provided for a first  
391 violation.

392 (2) It is unlawful for any person under 21 ~~18~~ years of age  
393 to misrepresent his or her age ~~or military service~~ for the  
394 purpose of inducing a dealer or an agent or employee of the  
395 dealer to sell, give, barter, furnish, or deliver any tobacco  
396 product, or to purchase, or attempt to purchase, any tobacco  
397 product from a person or a vending machine. Any person under 21  
398 ~~18~~ years of age who violates this subsection commits a  
399 noncriminal violation as provided in s. 775.08(3), punishable  
400 by:

401 (a) For a first violation, 16 hours of community service  
402 or, instead of community service, a \$25 fine and, in addition,  
403 if the person is under 18 years of age, the person must attend a  
404 school-approved anti-vaping or anti-tobacco program, ~~if~~  
405 ~~available~~; or

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

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409 Any second or subsequent violation not within the 12-week period  
410 after the first violation is punishable as provided for a first  
411 violation.

412 (3) Any person under 21 ~~18~~ years of age cited for  
413 committing a noncriminal violation under this section must sign  
414 and accept a civil citation indicating a promise to appear  
415 before the county court or comply with the requirement for  
416 paying the fine and, if the person is under 18 years of age,  
417 must attend a school-approved anti-vaping or anti-tobacco  
418 program, ~~if locally available~~. If a fine is assessed for a  
419 violation of this section, the fine must be paid within 30 days  
420 after the date of the citation or, if a court appearance is  
421 mandatory, within 30 days after the date of the hearing.

422 (4) A person charged with a noncriminal violation under  
423 this section must appear before the county court or comply with  
424 the requirement for paying the fine. The court, after a hearing,  
425 shall make a determination as to whether the noncriminal  
426 violation was committed. If the court finds the violation was  
427 committed, it shall impose an appropriate penalty as specified  
428 in subsection (1) or subsection (2). A person who participates  
429 in community service shall be considered an employee of the  
430 state for the purpose of chapter 440, for the duration of such  
431 service.

432 (5) (a) If a person under 21 ~~18~~ years of age is found by  
433 the court to have committed a noncriminal violation under this

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434 section and that person has failed to complete community  
435 service, pay the fine as required by paragraph (1) (a) or  
436 paragraph (2) (a), or, if the person is under 18 years of age,  
437 attend a school-approved anti-vaping or anti-tobacco program, ~~if~~  
438 ~~locally available,~~ the court may direct the Department of  
439 Highway Safety and Motor Vehicles to withhold issuance of or  
440 suspend the driver license or driving privilege of that person  
441 for a period of 30 consecutive days.

442 (b) If a person under 21 ~~18~~ years of age is found by the  
443 court to have committed a noncriminal violation under this  
444 section and that person has failed to pay the applicable fine as  
445 required by paragraph (1) (b) or paragraph (2) (b), the court may  
446 direct the Department of Highway Safety and Motor Vehicles to  
447 withhold issuance of or suspend the driver license or driving  
448 privilege of that person for a period of 45 consecutive days.

449 (6) Eighty percent of all civil penalties received by a  
450 county court pursuant to this section shall be remitted by the  
451 clerk of the court to the Department of Revenue for transfer to  
452 the Department of Education to provide for teacher training and  
453 for research and evaluation to reduce and prevent the use of  
454 tobacco products by children. The remaining 20 percent of civil  
455 penalties received by a county court pursuant to this section  
456 shall remain with the clerk of the county court to cover  
457 administrative costs.

458 Section 9. Section 877.112, Florida Statutes, is repealed.

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459 Section 10. Section 569.0075, Florida Statutes, is amended  
460 to read:

461 569.0075 Gift of sample tobacco products prohibited.—The  
462 gift of sample tobacco products to any person under the age of  
463 21 ~~18~~ by an entity licensed or permitted under the provisions of  
464 chapter 210 or this chapter, or by an employee of such entity,  
465 is prohibited and is punishable as provided in s. 569.101.

466 Section 11. Subsection (1), paragraphs (b) and (c) of  
467 subsection (2), and subsection (3) of section 569.008, Florida  
468 Statutes, are amended to read:

469 569.008 Responsible retail tobacco products dealers;  
470 qualifications; mitigation of disciplinary penalties; diligent  
471 management and supervision; presumption.—

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

476 (2) To qualify as a responsible retail tobacco products  
477 dealer, the dealer must establish and implement procedures  
478 designed to ensure that the dealer's employees comply with the  
479 provisions of this chapter. The dealer must provide a training  
480 program for the dealer's employees which addresses the use and  
481 sale of tobacco products and which includes at least the  
482 following topics:

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483 (b) Methods of recognizing and handling customers under 21  
484 ~~18~~ years of age.

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

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

492 (a) The dealer is qualified as a responsible dealer under  
493 this section.

494 (b) The dealer provided the training program required  
495 under subsection (2) to that employee before the illegal sale  
496 occurred.

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

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

502 Section 12. Paragraph (b) of subsection (2), subsection  
503 (3), and paragraph (g) of subsection (4) of section 569.12,  
504 Florida Statutes, are amended to read:

505 569.12 Jurisdiction; tobacco product enforcement officers  
506 or agents; enforcement.—

507 (2)

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508 (b) A tobacco product enforcement officer is authorized to  
509 issue a citation to a person under the age of 21 ~~18~~ when, based  
510 upon personal investigation, the officer has reasonable cause to  
511 believe that the person has committed a civil infraction in  
512 violation of s. 386.212 or s. 569.11.

513 (3) A correctional probation officer as defined in s.  
514 943.10(3) is authorized to issue a citation to a person under  
515 the age of 21 ~~18~~ when, based upon personal investigation, the  
516 officer has reasonable cause to believe that the person has  
517 committed a civil infraction in violation of s. 569.11.

518 (4) A citation issued to any person violating the  
519 provisions of s. 569.11 shall be in a form prescribed by the  
520 Division of Alcoholic Beverages and Tobacco of the Department of  
521 Business and Professional Regulation and shall contain:

522 (g) The procedure for the person to follow in order to  
523 contest the citation, perform the required community service,  
524 attend the required anti-vaping or anti-tobacco program, or to  
525 pay the civil penalty.

526 Section 13. Section 569.14, Florida Statutes, is amended  
527 to read:

528 569.14 Posting of a sign stating that the sale of tobacco  
529 products to persons under 21 ~~18~~ years of age is unlawful;  
530 enforcement; penalty.-

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

534  
535 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE  
536 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS  
537 REQUIRED FOR PURCHASE.

538  
539 ~~(2) A dealer that sells tobacco products and nicotine~~  
540 ~~products or nicotine dispensing devices, as defined in s.~~  
541 ~~877.112, may use a sign that substantially states the following:~~

542  
543 ~~THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR~~  
544 ~~NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE~~  
545 ~~OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED~~  
546 ~~FOR PURCHASE.~~

547  
548 ~~A dealer that uses a sign as described in this subsection meets~~  
549 ~~the signage requirements of subsection (1) and s. 877.112.~~

550 ~~(2)(3)~~ The division shall make available to dealers of  
551 tobacco products signs that meet the requirements of subsection  
552 (1) ~~or subsection (2).~~

553 ~~(3)(4)~~ Any dealer that sells tobacco products shall  
554 provide at the checkout counter in a location clearly visible to  
555 the dealer or the dealer's agent or employee instructional

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556 material in a calendar format or similar format to assist in  
557 determining whether a person is of legal age to purchase tobacco  
558 products. This point of sale material must contain substantially  
559 the following language:

560

IF YOU WERE NOT BORN BEFORE THIS DATE

561 (insert date and applicable year)

562 YOU CANNOT BUY TOBACCO PRODUCTS.

563

564  
565 Upon approval by the division, in lieu of a calendar a dealer  
566 may use card readers, scanners, or other electronic or automated  
567 systems that can verify whether a person is of legal age to  
568 purchase tobacco products. Failure to comply with the provisions  
569 contained in this subsection shall result in imposition of  
570 administrative penalties as provided in s. 569.006.

571 ~~(4)-(5)~~ The division, through its agents and inspectors,  
572 shall enforce this section.

573 ~~(5)-(6)~~ Any person who fails to comply with subsection (1)  
574 is guilty of a misdemeanor of the second degree, punishable as  
575 provided in s. 775.082 or s. 775.083.

576 Section 14. Subsections (3) and (4) of section 569.19,  
577 Florida Statutes, are amended to read:

578 569.19 Annual report.—The division shall report annually  
579 with written findings to the Legislature and the Governor by  
580 December 31, on the progress of implementing the enforcement

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581 provisions of this chapter. This must include, but is not  
582 limited to:

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

586 (4) The number of persons under age 21 ~~18~~ cited for  
587 violations of s. 569.11 and sanctions imposed as a result of  
588 citation.

589 Section 15. This act shall take effect January 1, 2021.

590

591

592

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593

**T I T L E A M E N D M E N T**

594

Remove everything before the enacting clause and insert:

595

A bill to be entitled

596

An act relating to the use of tobacco products and

597

nicotine products; amending s. 210.095, F.S.; deleting

598

the definition of the term "adult"; amending s.

599

210.15, F.S.; requiring permits to be issued to

600

persons or corporations whose officers are not less

601

than 21 years of age; amending s. 386.212, F.S.;

602

providing that it is unlawful for persons under 21

603

years of age to smoke tobacco in, on, or within 1,000

604

feet of the real property comprising a public or

605

private elementary, middle, or secondary school during

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606 specified hours; providing penalties; amending s.  
607 569.002, F.S.; revising and providing definitions;  
608 amending s. 569.003, F.S.; specifying that fees for a  
609 retail tobacco products dealer permit only apply to  
610 retailers dealing in certain tobacco products;  
611 prohibiting certain applicants from dealing, at  
612 retail, in certain tobacco products under certain  
613 circumstances; revising the age limits for retail  
614 tobacco products dealer permits; amending s. 569.007,  
615 F.S.; revising prohibitions on the sale of tobacco  
616 products from vending machines; providing requirements  
617 for the delivery of vapor-generating electronic  
618 devices and liquid nicotine products; conforming  
619 provisions to federal law; prohibiting a person from  
620 selling, delivering, bartering, furnishing, or giving  
621 flavored liquid nicotine products to any other person;  
622 defining the term "flavored liquid nicotine product";  
623 providing applicability; amending s. 569.101, F.S.;  
624 requiring that the age of persons purchasing tobacco  
625 products be verified under certain circumstances;  
626 amending s. 569.11, F.S.; revising civil penalties;  
627 conforming provisions to federal law; repealing s.  
628 877.112, F.S., relating to nicotine products and  
629 nicotine dispensing devices; amending ss. 569.0075,  
630 569.008, 569.12, 569.14, and 569.19, F.S.; conforming

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631 | provisions to federal law; conforming provisions to  
632 | changes made by the act; providing an effective date.

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