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1
2 An act relating to the use of tobacco products and
3 nicotine products; amending s. 210.095, F.S.; deleting
4 the definition of the term "adult"; amending s.
5 210.15, F.S.; requiring permits to be issued to
6 persons or corporations whose officers are not less
7 than 21 years of age; amending s. 386.212, F.S.;
8 providing that it is unlawful for persons under 21
9 years of age to smoke tobacco in, on, or within 1,000
10 feet of the real property comprising a public or
11 private elementary, middle, or secondary school during
12 specified hours; providing penalties; amending s.
13 569.002, F.S.; revising and providing definitions;
14 amending s. 569.003, F.S.; specifying that fees for a
15 retail tobacco products dealer permit only apply to
16 retailers dealing in certain tobacco products;
17 prohibiting certain applicants from dealing, at
18 retail, in certain tobacco products under certain
19 circumstances; revising the age limits for retail
20 tobacco products dealer permits; amending s. 569.007,
21 F.S.; revising prohibitions on the sale of tobacco
22 products from vending machines; providing requirements
23 for the delivery of vapor-generating electronic
24 devices and liquid nicotine products; conforming
25 provisions to federal law; prohibiting a person from
26 selling, delivering, bartering, furnishing, or giving
27 flavored liquid nicotine products to any other person;
28 defining the term "flavored liquid nicotine product";
29 providing applicability; amending s. 569.101, F.S.;

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30 requiring that the age of persons purchasing tobacco
31 products be verified under certain circumstances;
32 amending s. 569.11, F.S.; revising civil penalties;
33 conforming provisions to federal law; repealing s.
34 877.112, F.S., relating to nicotine products and
35 nicotine dispensing devices; amending ss. 569.0075,
36 569.008, 569.12, 569.14, and 569.19, F.S.; conforming
37 provisions to federal law; conforming provisions to
38 changes made by the act; providing an effective date.
39

40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Subsection (1), paragraphs (a) and (c) of
43 subsection (2), paragraph (a) of subsection (3), paragraph (a)
44 of subsection (4), paragraphs (a) and (b) of subsection (5), and
45 paragraphs (a), (b), (e), and (g) of subsection (8) of section
46 210.095, Florida Statutes, are amended to read:

47 210.095 Mail order, Internet, and remote sales of tobacco
48 products; age verification.—

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

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

52 (a) ~~(b)~~ "Consumer" means a person in this state who comes
53 into possession of any tobacco product subject to the tax
54 imposed by this chapter and who, at the time of possession, is
55 not a distributor intending to sell or distribute the tobacco
56 product, a retailer, or a wholesaler.

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

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59 1. The consumer submits the order for the sale by
60 telephonic or other voice transmission, mail, delivery service,
61 or the Internet or other online service; or

62 2. The tobacco products are delivered by use of mail or a
63 delivery service.

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

66 (d)~~(e)~~ "Legal minimum purchase age" means the minimum age
67 at which an individual may legally purchase tobacco products in
68 this state.

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

71 (f)~~(g)~~ "Retailer" means any person who is not a licensed
72 distributor but who is in possession of tobacco products subject
73 to tax under this chapter for the purposes of selling the
74 tobacco products to consumers.

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

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

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

84 (2)

85 (a) A sale of tobacco products constituting a delivery sale
86 pursuant to paragraph (1) (b) ~~(1) (e)~~ is a delivery sale
87 regardless of whether the person accepting the order for the

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88 delivery sale is located inside or outside this state.

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

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

96 (a) Obtains from the individual submitting the order a
97 certification that includes:

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

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

102 a. Certifies the address and date of birth of the
103 individual; and

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

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

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

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

112

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

116 (4) The notice described in paragraph (3)(c) must include

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117 prominent and clearly legible statements that sales of tobacco
118 products are:

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

121
122 The notice must include an explanation of how each tax has been,
123 or is to be, paid with respect to the delivery sale.

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

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

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

134 1. The individual submitting the order for the delivery
135 sale or another individual who is 21 years of age or older ~~adult~~
136 who resides at the individual's address to sign his or her name
137 to accept delivery of the shipping container. Proof of the legal
138 minimum purchase age of the individual accepting delivery is
139 required only if the individual appears to be under 30 ~~27~~ years
140 of age.

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

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

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

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

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

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

(e) A person who, in connection with a delivery sale, delivers tobacco products on behalf of a delivery service to an individual who is not 21 years of age or older ~~an adult~~ commits

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175 a misdemeanor of the third degree, punishable as provided in s.
176 775.082 or s. 775.083.

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

181 Section 2. Paragraph (b) of subsection (1) of section
182 210.15, Florida Statutes, is amended to read:

183 210.15 Permits.—

184 (1)

185 (b) Permits shall be issued only to persons of good moral
186 character, who are not less than 21 ~~18~~ years of age. Permits to
187 corporations shall be issued only to corporations whose officers
188 are of good moral character and not less than 21 ~~18~~ years of
189 age. There shall be no exemptions from the permit fees herein
190 provided to any persons, association of persons, or corporation,
191 any law to the contrary notwithstanding.

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

194 386.212 Smoking and vaping prohibited near school property;
195 penalty.—

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

202 (3) Any person issued a citation pursuant to this section
203 shall be deemed to be charged with a civil infraction punishable

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204 by a maximum civil penalty not to exceed \$25, or 50 hours of
205 community service and, for persons under 18 years of age ~~or,~~
206 ~~where available,~~ successful completion of a school-approved
207 anti-tobacco or anti-vaping "alternative to suspension" program.

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

212 569.002 Definitions.—As used in this chapter, the term:

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

217 (7) ~~(6)~~ "Tobacco products" includes:

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

221 (b) Any nicotine product or vapor-generating electronic
222 device.

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

224 a. "Vapor-generating electronic device" means any product
225 that employs an electronic, chemical, or mechanical means
226 capable of producing vapor or aerosol from a nicotine product or
227 any other substance, including, but not limited to, an
228 electronic cigarette, electronic cigar, electronic cigarillo,
229 electronic pipe, or other similar device or product; any
230 replacement cartridge for such device; and any other container
231 of nicotine in a solution or other substance form intended to be
232 used with or within an electronic cigarette, an electronic

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233 cigar, an electronic cigarillo, an electronic pipe, a vape pen,
234 an electronic hookah, or other similar device or product. The
235 term includes any component, part, or accessory of the device
236 and also includes any substance intended to be aerosolized or
237 vaporized during the use of the device, whether or not the
238 substance contains nicotine.

239 b. "Nicotine product" means any product that contains
240 nicotine, including liquid nicotine, which is intended for human
241 consumption, whether inhaled, chewed, absorbed, dissolved, or
242 ingested by any means. The term includes vapor-generating
243 electronic devices.

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

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

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

250 c. Foods that contain incidental amounts of nicotine
251 including, but not limited to, tomatoes, potatoes, eggplants,
252 and cauliflower.

253 (8)(7) "Any person under the age of 21 ~~18~~" does not include
254 any person under the age of 21 ~~18~~ who:

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

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

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

261 ~~or~~

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

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

268 569.003 Retail tobacco products dealer permits;
269 application; qualifications; fees; renewal; duplicates.—

270 (1)

271 (b) Application for a permit must be made on a form
272 furnished by the division and must set forth the name under
273 which the applicant transacts or intends to transact business,
274 the address of the location of the applicant's place of business
275 within the state, and any other information the division
276 requires. If the applicant has or intends to have more than one
277 place of business dealing in tobacco products within this state,
278 a separate application must be made for each place of business.
279 If the applicant is a firm or an association, the application
280 must set forth the names and addresses of the persons
281 constituting the firm or association; if the applicant is a
282 corporation, the application must set forth the names and
283 addresses of the principal officers of the corporation. The
284 application must also set forth any other information prescribed
285 by the division for the purpose of identifying the applicant
286 firm, association, or corporation. The application must be
287 signed and verified by oath or affirmation by the owner, if a
288 sole proprietor, or, if the owner is a firm, association, or
289 partnership, by the members or partners thereof, or, if the
290 owner is a corporation, by an executive officer of the

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291 corporation or by any person authorized by the corporation to
292 sign the application, together with the written evidence of this
293 authority. The application must be accompanied by the annual
294 permit fee prescribed by the division. However, if an applicant
295 indicates on the application that the applicant is only going to
296 deal, at retail, in liquid nicotine products, nicotine products,
297 or vapor-generating electronic devices, or a combination
298 thereof, the division may not assess the annual permit fee and
299 shall issue the applicant a limited retail tobacco products
300 dealer permit upon the division's approval of the application.
301 Such applicant may not deal, at retail, in tobacco products
302 described in s. 569.002(7)(a) in this state. Any applicant that
303 pays the annual permit fee for a retail tobacco products dealer
304 permit may deal, at retail, in all tobacco products.

305 (c) Permits shall be issued annually, upon payment of the
306 annual permit fee prescribed by the division. The division shall
307 fix the fee in an amount sufficient to meet the costs incurred
308 by it in carrying out its permitting, enforcement, and
309 administrative responsibilities under this chapter, but the fee
310 may not exceed \$50. The proceeds of the fee shall be deposited
311 into the Alcoholic Beverage and Tobacco Trust Fund. However, the
312 division may not fix or assess a fee for a limited retail
313 tobacco products dealer permit.

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

317 Section 6. Subsections (3), (4), and (5) of section
318 569.007, Florida Statutes, are renumbered as subsections (2),
319 (3), and (4), respectively, subsections (1) and (2) are amended,

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320 and a new subsection (5) is added to that section, to read:

321 569.007 Sale or delivery of tobacco products;
322 restrictions.-

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

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

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

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

337 1. Before accepting an order for delivery, verifies that
338 the purchaser is at least 21 years of age using a commercially
339 available database, or an aggregate of databases, which is
340 regularly used for the purpose of age and identity verification;
341 and

342 2. Employs a second-step age verification to secure
343 delivery for every order by requiring the signature of the
344 purchaser upon delivery and verifying that the credit card or
345 debit card used for the purchase has been issued in the
346 purchaser's name and that the delivery address is associated
347 with the purchaser's credit card or debit card ~~equipped with an~~
348 ~~operational lockout device which is under the control of the~~

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349 ~~dealer or the dealer's agent or employee who directly regulates~~
350 ~~the sale of items through the machine by triggering the lockout~~
351 ~~device to allow the dispensing of one tobacco product. The~~
352 ~~lockout device must include a mechanism to prevent the machine~~
353 ~~from functioning if the power source for the lockout device~~
354 ~~fails or if the lockout device is disabled, and a mechanism to~~
355 ~~ensure that only one tobacco product is dispensed at a time.~~

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

359 (5) (a) A person may not sell, deliver, barter, furnish, or
360 give, directly or indirectly, flavored liquid nicotine products
361 to any other person. For the purposes of this subsection, the
362 term "flavored liquid nicotine product" means a liquid nicotine
363 product containing a natural or artificial constituent or
364 additive that causes the liquid or its vapor to have a
365 distinguishable taste or aroma other than tobacco or menthol,
366 including, but not limited to, fruit, chocolate, vanilla, honey,
367 candy, cocoa, a dessert, an alcoholic beverage, an herb or a
368 spice, or any combination thereof.

369 (b) This subsection does not apply to the sale, shipment,
370 or transport of any product that receives a marketing order
371 issued by the United States Food and Drug Administration under
372 21 U.S.C. s. 387j.

373 Section 7. Section 569.101, Florida Statutes, is amended to
374 read:

375 569.101 Selling, delivering, bartering, furnishing, or
376 giving tobacco products to persons under 21 ~~18~~ years of age;
377 criminal penalties; defense.-

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

381 (2) Any person who violates subsection (1) commits a
382 misdemeanor of the second degree, punishable as provided in s.
383 775.082 or s. 775.083. However, any person who violates
384 subsection (1) for a second or subsequent time within 1 year of
385 the first violation, commits a misdemeanor of the first degree,
386 punishable as provided in s. 775.082 or s. 775.083.

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

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

392 (b) The appearance of the buyer or recipient was such that
393 a prudent person would believe the buyer or recipient to be 21
394 ~~18~~ years of age or older; and

395 (c) Such person carefully checked a driver license or an
396 identification card issued by this state or another state of the
397 United States, a passport, or a United States armed services
398 identification card presented by the buyer or recipient and
399 acted in good faith and in reliance upon the representation and
400 appearance of the buyer or recipient in the belief that the
401 buyer or recipient was 21 ~~18~~ years of age or older.

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

406 Section 8. Section 569.11, Florida Statutes, is amended to

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407 read:

408 569.11 Possession, misrepresenting age ~~or military service~~
409 to purchase, and purchase of tobacco products by persons under
410 21 ~~18~~ years of age prohibited; penalties; jurisdiction;
411 disposition of fines.—

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

416 (a) For a first violation, 16 hours of community service
417 or, instead of community service, a \$25 fine. In addition, if
418 the person is under 18 years of age, the person must attend a
419 school-approved anti-vaping or anti-tobacco program, ~~if locally~~
420 ~~available;~~ or

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

423
424 Any second or subsequent violation not within the 12-week period
425 after the first violation is punishable as provided for a first
426 violation.

427 (2) It is unlawful for any person under 21 ~~18~~ years of age
428 to misrepresent his or her age ~~or military service~~ for the
429 purpose of inducing a dealer or an agent or employee of the
430 dealer to sell, give, barter, furnish, or deliver any tobacco
431 product, or to purchase, or attempt to purchase, any tobacco
432 product from a person or a vending machine. Any person under 21
433 ~~18~~ years of age who violates this subsection commits a
434 noncriminal violation as provided in s. 775.08(3), punishable
435 by:

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

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

443
444 Any second or subsequent violation not within the 12-week period
445 after the first violation is punishable as provided for a first
446 violation.

447 (3) Any person under 21 ~~18~~ years of age cited for
448 committing a noncriminal violation under this section must sign
449 and accept a civil citation indicating a promise to appear
450 before the county court or comply with the requirement for
451 paying the fine and, if the person is under 18 years of age,
452 must attend a school-approved anti-vaping or anti-tobacco
453 program,~~if locally available.~~ If a fine is assessed for a
454 violation of this section, the fine must be paid within 30 days
455 after the date of the citation or, if a court appearance is
456 mandatory, within 30 days after the date of the hearing.

457 (4) A person charged with a noncriminal violation under
458 this section must appear before the county court or comply with
459 the requirement for paying the fine. The court, after a hearing,
460 shall make a determination as to whether the noncriminal
461 violation was committed. If the court finds the violation was
462 committed, it shall impose an appropriate penalty as specified
463 in subsection (1) or subsection (2). A person who participates
464 in community service shall be considered an employee of the

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465 state for the purpose of chapter 440, for the duration of such
466 service.

467 (5) (a) If a person under 21 ~~18~~ years of age is found by the
468 court to have committed a noncriminal violation under this
469 section and that person has failed to complete community
470 service, pay the fine as required by paragraph (1) (a) or
471 paragraph (2) (a), or, if the person is under 18 years of age,
472 attend a school-approved anti-vaping or anti-tobacco program,~~if~~
473 ~~locally available,~~ the court may direct the Department of
474 Highway Safety and Motor Vehicles to withhold issuance of or
475 suspend the driver license or driving privilege of that person
476 for a period of 30 consecutive days.

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

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

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

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494 Section 10. Section 569.0075, Florida Statutes, is amended
495 to read:

496 569.0075 Gift of sample tobacco products prohibited.—The
497 gift of sample tobacco products to any person under the age of
498 21 ~~18~~ by an entity licensed or permitted under the provisions of
499 chapter 210 or this chapter, or by an employee of such entity,
500 is prohibited and is punishable as provided in s. 569.101.

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

504 569.008 Responsible retail tobacco products dealers;
505 qualifications; mitigation of disciplinary penalties; diligent
506 management and supervision; presumption.—

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

511 (2) To qualify as a responsible retail tobacco products
512 dealer, the dealer must establish and implement procedures
513 designed to ensure that the dealer's employees comply with the
514 provisions of this chapter. The dealer must provide a training
515 program for the dealer's employees which addresses the use and
516 sale of tobacco products and which includes at least the
517 following topics:

518 (b) Methods of recognizing and handling customers under 21
519 ~~18~~ years of age.

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

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523 (3) In determining penalties under s. 569.006, the division
524 may mitigate penalties imposed against a dealer because of an
525 employee's illegal sale of a tobacco product to a person under
526 21 ~~18~~ years of age if the following conditions are met:

527 (a) The dealer is qualified as a responsible dealer under
528 this section.

529 (b) The dealer provided the training program required under
530 subsection (2) to that employee before the illegal sale
531 occurred.

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

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

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

540 569.12 Jurisdiction; tobacco product enforcement officers
541 or agents; enforcement.—

542 (2)

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

548 (3) A correctional probation officer as defined in s.
549 943.10(3) is authorized to issue a citation to a person under
550 the age of 21 ~~18~~ when, based upon personal investigation, the
551 officer has reasonable cause to believe that the person has

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552 committed a civil infraction in violation of s. 569.11.

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

557 (g) The procedure for the person to follow in order to
558 contest the citation, perform the required community service,
559 attend the required anti-vaping or anti-tobacco program, or to
560 pay the civil penalty.

561 Section 13. Section 569.14, Florida Statutes, is amended to
562 read:

563 569.14 Posting of a sign stating that the sale of tobacco
564 products to persons under 21 ~~18~~ years of age is unlawful;
565 enforcement; penalty.—

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

569
570 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE
571 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS
572 REQUIRED FOR PURCHASE.

573
574 ~~(2) A dealer that sells tobacco products and nicotine~~
575 ~~products or nicotine dispensing devices, as defined in s.~~
576 ~~877.112, may use a sign that substantially states the following:~~

577
578 ~~THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR~~
579 ~~NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE~~
580 ~~OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED~~

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581 ~~FOR PURCHASE.~~

582

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

585 (2)~~(3)~~ The division shall make available to dealers of
586 tobacco products signs that meet the requirements of subsection
587 (1) ~~or subsection (2)~~.

588 (3)~~(4)~~ Any dealer that sells tobacco products shall provide
589 at the checkout counter in a location clearly visible to the
590 dealer or the dealer's agent or employee instructional material
591 in a calendar format or similar format to assist in determining
592 whether a person is of legal age to purchase tobacco products.
593 This point of sale material must contain substantially the
594 following language:

595

596 IF YOU WERE NOT BORN BEFORE THIS DATE
597 (insert date and applicable year)
598 YOU CANNOT BUY TOBACCO PRODUCTS.

599

600 Upon approval by the division, in lieu of a calendar a dealer
601 may use card readers, scanners, or other electronic or automated
602 systems that can verify whether a person is of legal age to
603 purchase tobacco products. Failure to comply with the provisions
604 contained in this subsection shall result in imposition of
605 administrative penalties as provided in s. 569.006.

606 (4)~~(5)~~ The division, through its agents and inspectors,
607 shall enforce this section.

608 (5)~~(6)~~ Any person who fails to comply with subsection (1)
609 is guilty of a misdemeanor of the second degree, punishable as

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610 provided in s. 775.082 or s. 775.083.

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

613 569.19 Annual report.—The division shall report annually
614 with written findings to the Legislature and the Governor by
615 December 31, on the progress of implementing the enforcement
616 provisions of this chapter. This must include, but is not
617 limited to:

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

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

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