



859156

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2021	.	
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The Committee on Regulated Industries (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of 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:



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11 210.095 Mail order, Internet, and remote sales of tobacco
12 products; age verification.—

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

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

16 (2)

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

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

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

28 (a) Obtains from the individual submitting the order a
29 certification that includes:

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

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

34 a. Certifies the address and date of birth of the
35 individual; and

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

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



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

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

44

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

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

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

53

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

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

59 (a) Include as part of the shipping documents, in a clear
60 and conspicuous manner, the following statement: "Tobacco
61 Products: Florida law prohibits shipping to individuals under 21
62 ~~18~~ years of age and requires the payment of all applicable
63 taxes."

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

66 1. The individual submitting the order for the delivery
67 sale or another individual who is 21 years of age or older ~~adult~~
68 who resides at the individual's address to sign his or her name



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69 to accept delivery of the shipping container. Proof of the legal
70 minimum purchase age of the individual accepting delivery is
71 required only if the individual appears to be under 30 ~~27~~ years
72 of age.

73 2. Proof that the individual is either the addressee or the
74 individual who is 21 years of age or older ~~adult~~ designated by
75 the addressee, in the form of a valid, government-issued
76 identification card bearing a photograph of the individual who
77 signs to accept delivery of the shipping container.

78
79 If the person accepting a purchase order for a delivery sale
80 delivers the tobacco products without using a delivery service,
81 the person must comply with all of the requirements of this
82 section which apply to a delivery service. Any failure to comply
83 with a requirement of this section constitutes a violation
84 thereof.

85 (8) (a) Except as otherwise provided in this section, a
86 violation of this section by a person other than an individual
87 who is not 21 years of age or older ~~an adult~~ is a misdemeanor of
88 the first degree, punishable as provided in s. 775.082 or s.
89 775.083, and:

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

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

97 (b) A person who is 21 years of age or older ~~an adult~~ and



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98 knowingly submits a false certification under subsection (3)
99 commits a misdemeanor of the first degree, punishable as
100 provided in s. 775.082 or s. 775.083. For each offense, the
101 person shall be fined \$10,000 or five times the retail value of
102 the tobacco products involved in the violation, whichever is
103 greater.

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

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

113 Section 2. Paragraph (b) of subsection (1) of section
114 210.15, Florida Statutes, is amended to read:

115 210.15 Permits.—

116 (1)

117 (b) Permits shall be issued only to persons of good moral
118 character who are not less than 21 ~~18~~ years of age. Permits to
119 corporations shall be issued only to corporations whose officers
120 are of good moral character and not less than 21 ~~18~~ years of
121 age. There shall be no exemptions from the permit fees herein
122 provided to any persons, association of persons, or corporation,
123 any law to the contrary notwithstanding.

124 Section 3. Subsection (1) of section 386.212, Florida
125 Statutes, is amended to read:

126 386.212 Smoking and vaping prohibited near school property;



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127 penalty.-

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

134 Section 4. Chapter 569, entitled "Tobacco Products," is
135 renamed "Tobacco and Nicotine Products."

136 Section 5. The Division of Law Revision is directed to:

137 (1) Create part I of chapter 569, Florida Statutes,
138 consisting of ss. 569.002-569.23, Florida Statutes, to be
139 entitled "Tobacco Products."

140 (2) Create part II of chapter 569, Florida Statutes,
141 consisting of ss. 569.31-569.45, Florida Statutes, to be
142 entitled "Nicotine Products."

143 Section 6. Section 569.002, Florida Statutes, is amended to
144 read:

145 569.002 Definitions.—As used in this part ~~chapter~~, the
146 term:

147 (1) "Dealer" is synonymous with the term "retail tobacco
148 products dealer."

149 (2) "Division" means the Division of Alcoholic Beverages
150 and Tobacco of the Department of Business and Professional
151 Regulation.

152 (3) "Nicotine product" has the same meaning as provided in
153 s. 569.31(4).

154 (4) "Nicotine dispensing device" has the same meaning as
155 provided in s. 569.31(3).



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156 (5) "Permit" is synonymous with the term "retail tobacco
157 products dealer permit."

158 (6)~~(4)~~ "Retail tobacco products dealer" means the holder of
159 a retail tobacco products dealer permit.

160 (7)~~(5)~~ "Retail tobacco products dealer permit" means a
161 permit issued by the division pursuant to s. 569.003.

162 (8)~~(6)~~ "Tobacco products" includes loose tobacco leaves,
163 and products made from tobacco leaves, in whole or in part, and
164 cigarette wrappers, which can be used for smoking, sniffing, or
165 chewing.

166 (9)~~(7)~~ "Any person under the age of 21 ~~18~~" does not include
167 any person under the age of 21 ~~18~~ who:

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

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

172 ~~(c) Is otherwise emancipated by a court of competent~~
173 ~~jurisdiction and released from parental care and responsibility;~~
174 or

175 (b)~~(d)~~ Is acting in his or her scope of lawful employment
176 with an entity licensed under the provisions of chapter 210 or
177 this part ~~chapter~~.

178 Section 7. Paragraph (c) of subsection (1) of section
179 569.003, Florida Statutes, is amended to read:

180 569.003 Retail tobacco products dealer permits;
181 application; qualifications; fees; renewal; duplicates.-

182 (1)

183 (c) Permits shall be issued annually, upon payment of the
184 annual permit fee prescribed by the division. The division shall



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185 fix the fee in an amount sufficient to meet the costs incurred
186 by it in carrying out its permitting, enforcement, and
187 administrative responsibilities under this part ~~chapter~~, but the
188 fee may not exceed \$50. The proceeds of the fee shall be
189 deposited into the Alcoholic Beverage and Tobacco Trust Fund.

190 Section 8. Section 569.004, Florida Statutes, is amended to
191 read:

192 569.004 Consent to inspection and search without warrant.—
193 An applicant for a permit, by accepting the permit when issued,
194 agrees that the place or premises covered by the permit is
195 subject to inspection and search without a search warrant by the
196 division or its authorized assistants, and by sheriffs, deputy
197 sheriffs, or police officers, to determine compliance with this
198 chapter, including part II of this chapter if the applicant
199 deals, at retail, in nicotine products within the state or
200 allows a nicotine products vending machine to be located on its
201 premises within the state.

202 Section 9. Section 569.006, Florida Statutes, is amended to
203 read:

204 569.006 Retail tobacco products dealers; administrative
205 penalties.—The division may suspend or revoke the permit of the
206 dealer upon sufficient cause appearing of the violation of any
207 of the provisions of this chapter, including part II of this
208 chapter if the dealer deals, at retail, in nicotine products
209 within the state or allows a nicotine products vending machine
210 to be located on its premises within the state, by a dealer or
211 by a dealer's agent or employee. The division may also assess
212 and accept administrative fines of up to \$1,000 against a dealer
213 for each violation. The division shall deposit all fines



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214 collected into the General Revenue Fund as collected. An order
215 imposing an administrative fine becomes effective 15 days after
216 the date of the order. The division may suspend the imposition
217 of a penalty against a dealer, conditioned upon the dealer's
218 compliance with terms the division considers appropriate.

219 Section 10. Subsections (1) and (2) of section 569.007,
220 Florida Statutes, are amended to read:

221 569.007 Sale or delivery of tobacco products;
222 restrictions.—

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

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

228 (b) Sales from a vending machine are prohibited under the
229 provisions of paragraph (1)(a) and are only permissible from a
230 machine that is equipped with an operational lockout device
231 which is under the control of the dealer or the dealer's agent
232 or employee who directly regulates the sale of items through the
233 machine by triggering the lockout device to allow the dispensing
234 of one tobacco product. The lockout device must include a
235 mechanism to prevent the machine from functioning if the power
236 source for the lockout device fails or if the lockout device is
237 disabled, and a mechanism to ensure that only one tobacco
238 product is dispensed at a time.

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

242 Section 11. Section 569.0075, Florida Statutes, is amended



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243 to read:

244 569.0075 Gift of sample tobacco products prohibited.—The
245 gift of sample tobacco products to any person under the age of
246 21 ~~18~~ by an entity licensed or permitted under the provisions of
247 chapter 210 or this part ~~chapter~~, or by an employee of such
248 entity, is prohibited and is punishable as provided in s.
249 569.101.

250 Section 12. Subsection (1), paragraphs (b) and (c) of
251 subsection (2), and subsection (3) of section 569.008, Florida
252 Statutes, are amended to read:

253 569.008 Responsible retail tobacco products dealers;
254 qualifications; mitigation of disciplinary penalties; diligent
255 management and supervision; presumption.—

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

260 (2) To qualify as a responsible retail tobacco products
261 dealer, the dealer must establish and implement procedures
262 designed to ensure that the dealer's employees comply with the
263 provisions of this part ~~chapter~~. The dealer must provide a
264 training program for the dealer's employees which addresses the
265 use and sale of tobacco products and which includes at least the
266 following topics:

267 (b) Methods of recognizing and handling customers under 21
268 ~~18~~ years of age.

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



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272 (3) In determining penalties under s. 569.006, the division
273 may mitigate penalties imposed against a dealer because of an
274 employee's illegal sale of a tobacco product to a person under
275 21 ~~18~~ years of age if the following conditions are met:

276 (a) The dealer is qualified as a responsible dealer under
277 this section.

278 (b) The dealer provided the training program required under
279 subsection (2) to that employee before the illegal sale
280 occurred.

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

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

286 Section 13. Section 569.009, Florida Statutes, is amended
287 to read:

288 569.009 Rulemaking authority.—The division shall adopt any
289 rules necessary to administer and enforce the provisions of this
290 part ~~chapter~~.

291 Section 14. Section 569.101, Florida Statutes, is amended
292 to read:

293 569.101 Selling, delivering, bartering, furnishing, or
294 giving tobacco products to persons under 21 ~~18~~ years of age;
295 criminal penalties; defense.—

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

299 (2) Any person who violates subsection (1) commits a
300 misdemeanor of the second degree, punishable as provided in s.



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301 775.082 or s. 775.083. However, any person who violates
302 subsection (1) for a second or subsequent time within 1 year of
303 the first violation, commits a misdemeanor of the first degree,
304 punishable as provided in s. 775.082 or s. 775.083.

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

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

310 (b) The appearance of the buyer or recipient was such that
311 a prudent person would believe the buyer or recipient to be 21
312 ~~18~~ years of age or older; and

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

320 Section 15. Section 569.11, Florida Statutes, is amended to
321 read:

322 569.11 Possession, misrepresenting age or military service
323 to purchase, and purchase of tobacco products by persons under
324 21 ~~18~~ years of age prohibited; penalties; jurisdiction;
325 disposition of fines.-

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



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

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

336

337 Any second or subsequent violation not within the 12-week period
338 after the first violation is punishable as provided for a first
339 violation.

340 (2) It is unlawful for any person under 21 ~~18~~ years of age
341 to misrepresent his or her age or military service for the
342 purpose of inducing a dealer or an agent or employee of the
343 dealer to sell, give, barter, furnish, or deliver any tobacco
344 product, or to purchase, or attempt to purchase, any tobacco
345 product from a person or a vending machine. Any person under 21
346 ~~18~~ years of age who violates this subsection commits a
347 noncriminal violation as provided in s. 775.08(3), punishable
348 by:

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

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

355

356 Any second or subsequent violation not within the 12-week period
357 after the first violation is punishable as provided for a first
358 violation.



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359 (3) Any person under 21 ~~18~~ years of age cited for
360 committing a noncriminal violation under this section must sign
361 and accept a civil citation indicating a promise to appear
362 before the county court or comply with the requirement for
363 paying the fine and must attend a school-approved anti-tobacco
364 program, if locally available. If a fine is assessed for a
365 violation of this section, the fine must be paid within 30 days
366 after the date of the citation or, if a court appearance is
367 mandatory, within 30 days after the date of the hearing.

368 (4) A person charged with a noncriminal violation under
369 this section must appear before the county court or comply with
370 the requirement for paying the fine. The court, after a hearing,
371 shall make a determination as to whether the noncriminal
372 violation was committed. If the court finds the violation was
373 committed, it shall impose an appropriate penalty as specified
374 in subsection (1) or subsection (2). A person who participates
375 in community service shall be considered an employee of the
376 state for the purpose of chapter 440, for the duration of such
377 service.

378 (5) (a) If a person under 21 ~~18~~ years of age is found by the
379 court to have committed a noncriminal violation under this
380 section and that person has failed to complete community
381 service, pay the fine as required by paragraph (1) (a) or
382 paragraph (2) (a), or attend a school-approved anti-tobacco
383 program, if locally available, the court may direct the
384 Department of Highway Safety and Motor Vehicles to withhold
385 issuance of or suspend the driver license or driving privilege
386 of that person for a period of 30 consecutive days.

387 (b) If a person under 21 ~~18~~ years of age is found by the



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388 court to have committed a noncriminal violation under this
389 section and that person has failed to pay the applicable fine as
390 required by paragraph (1) (b) or paragraph (2) (b), the court may
391 direct the Department of Highway Safety and Motor Vehicles to
392 withhold issuance of or suspend the driver license or driving
393 privilege of that person for a period of 45 consecutive days.

394 (6) Eighty percent of all civil penalties received by a
395 county court pursuant to this section shall be remitted by the
396 clerk of the court to the Department of Revenue for transfer to
397 the Department of Education to provide for teacher training and
398 for research and evaluation to reduce and prevent the use of
399 tobacco products by children. The remaining 20 percent of civil
400 penalties received by a county court pursuant to this section
401 shall remain with the clerk of the county court to cover
402 administrative costs.

403 Section 16. Section 569.12, Florida Statutes, is amended to
404 read:

405 569.12 Jurisdiction; tobacco product and nicotine product
406 enforcement officers or agents; enforcement.—

407 (1) In addition to the Division of Alcoholic Beverages and
408 Tobacco of the Department of Business and Professional
409 Regulation, any law enforcement officer certified under s.
410 943.10(1), (6), or (8) shall enforce the provisions of this
411 chapter.

412 (2) (a) A county or municipality may designate certain of
413 its employees or agents as tobacco product and nicotine product
414 enforcement officers. The training and qualifications of the
415 employees or agents for such designation shall be determined by
416 the county or the municipality. Nothing in this section shall be



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417 construed to permit the carrying of firearms or other weapons by
418 a tobacco product and nicotine product enforcement agent, nor
419 does designation as a tobacco product and nicotine product
420 enforcement officer provide the employee or agent with the power
421 of arrest or subject the employee or agent to the provisions of
422 ss. 943.085-943.255. Nothing in this section amends, alters, or
423 contravenes the provisions of any state-administered retirement
424 system or any state-supported retirement system established by
425 general law.

426 (b) A tobacco and nicotine product enforcement officer is
427 authorized to issue a citation to a person under the age of 21
428 ~~18~~ when, based upon personal investigation, the officer has
429 reasonable cause to believe that the person has committed a
430 civil infraction in violation of s. 386.212, ~~or~~ s. 569.11, or s.
431 569.42.

432 (3) A correctional probation officer as defined in s.
433 943.10(3) is authorized to issue a citation to a person under
434 the age of 21 ~~18~~ when, based upon personal investigation, the
435 officer has reasonable cause to believe that the person has
436 committed a civil infraction in violation of s. 569.11 or s.
437 569.42.

438 (4) A citation issued to any person violating the
439 provisions of s. 569.11 or s. 569.42 shall be in a form
440 prescribed by the Division of Alcoholic Beverages and Tobacco of
441 the Department of Business and Professional Regulation and shall
442 contain:

443 (a) The date and time of issuance.

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



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

447 (d) The facts constituting reasonable cause.

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

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

450 (g) The procedure for the person to follow in order to
451 contest the citation, perform the required community service,
452 attend the required anti-tobacco or anti-tobacco and anti-
453 nicotine program, or to pay the civil penalty.

454 Section 17. Section 569.14, Florida Statutes, is amended to
455 read:

456 569.14 Posting of a sign stating that the sale of tobacco
457 products or nicotine products to persons under 21 ~~18~~ years of
458 age is unlawful; enforcement; penalty.—

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

462

463 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE
464 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS
465 REQUIRED FOR PURCHASE.

466

467 (2) A dealer that sells tobacco products and nicotine
468 products or nicotine dispensing devices, ~~as defined in s.~~
469 ~~877.112,~~ may use a sign that substantially states the following:

470

471 THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR
472 NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE
473 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS
474 REQUIRED FOR PURCHASE.



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A dealer that uses a sign as described in this subsection meets the signage requirements of subsection (1) and s. 569.43(1) ~~s. 877.112~~.

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

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

IF YOU WERE NOT BORN BEFORE THIS DATE
(insert date and applicable year)
YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS,
OR NICOTINE DISPENSING DEVICES.

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

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

(6) Any person who fails to comply with subsection (1) is



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504 guilty of a misdemeanor of the second degree, punishable as
505 provided in s. 775.082 or s. 775.083.

506 Section 18. Section 569.19, Florida Statutes, is amended to
507 read:

508 569.19 Annual report.—The division shall report annually
509 with written findings to the Legislature and the Governor by
510 December 31, on the progress of implementing the enforcement
511 provisions of this part ~~chapter~~. This must include, but is not
512 limited to:

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

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

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

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

522 Section 19. Section 569.31, Florida Statutes, is created to
523 read:

524 569.31 Definitions.—As used in this part, the term:

525 (1) "Dealer" is synonymous with the term "retail nicotine
526 products dealer."

527 (2) "Division" means the Division of Alcoholic Beverages
528 and Tobacco of the Department of Business and Professional
529 Regulation.

530 (3) "Nicotine dispensing device" means any product that
531 employs an electronic, chemical, or mechanical means to produce
532 vapor or aerosol from a nicotine product, including, but not



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533 limited to, an electronic cigarette, electronic cigar,
534 electronic cigarillo, electronic pipe, or other similar device
535 or product, any replacement cartridge for such device, and any
536 other container of nicotine in a solution or other form intended
537 to be used with or within an electronic cigarette, electronic
538 cigar, electronic cigarillo, electronic pipe, or other similar
539 device or product.

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

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

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

549 (c) Product that contains incidental nicotine.

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

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

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

556 (8) "Self-service merchandising" means the open display of
557 nicotine products, whether packaged or otherwise, for direct
558 retail customer access and handling before purchase without the
559 intervention or assistance of the dealer or the dealer's owner,
560 employee, or agent. An open display of such products and devices
561 includes the use of an open display unit.



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

564 (a) Is in the military reserve or on active duty in the
565 Armed Forces of the United States; or

566 (b) Is acting in his or her scope of lawful employment.

567 Section 20. Section 569.32, Florida Statutes, is created to
568 read:

569 569.32 Retail nicotine products dealer permits;
570 application; qualifications; renewal; duplicates.—

571 (1)(a) Each person, firm, association, or corporation that
572 seeks to deal, at retail, in nicotine products within the state,
573 or to allow a nicotine products vending machine to be located on
574 its premises in the state, must obtain a retail nicotine
575 products dealer permit for each place of business or premises at
576 which nicotine products are sold. Each dealer owning, leasing,
577 furnishing, or operating vending machines through which nicotine
578 products are sold must obtain a permit for each machine and
579 shall post the permit in a conspicuous place on or near the
580 machine; however, if the dealer has more than one vending
581 machine at a single location or if nicotine products are sold
582 both over the counter and through a vending machine at a single
583 location, the dealer need obtain only one permit for that
584 location.

585 (b) Application for a permit must be made on a form
586 furnished by the division and must set forth the name under
587 which the applicant transacts or intends to transact business,
588 the address of the location of the applicant's place of business
589 within the state, and any other information the division
590 requires. If the applicant has or intends to have more than one



591 place of business dealing in nicotine products within the state,
592 a separate application must be made for each place of business.
593 If the applicant is a firm or an association, the application
594 must set forth the names and addresses of the persons
595 constituting the firm or association; if the applicant is a
596 corporation, the application must set forth the names and
597 addresses of the principal officers of the corporation. The
598 application must also set forth any other information prescribed
599 by the division for the purpose of identifying the applicant
600 firm, association, or corporation. The application must be
601 signed and verified by oath or affirmation by the owner, if a
602 sole proprietor, or, if the owner is a firm, association, or
603 partnership, by the members or partners thereof, or, if the
604 owner is a corporation, by an executive officer of the
605 corporation or by a person authorized by the corporation to sign
606 the application, together with the written evidence of this
607 authority.

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

611 (b) The division may refuse to issue a permit to any
612 person, firm, association, or corporation the permit of which
613 has been revoked, to any corporation an officer of which has had
614 his or her permit revoked, or to any person who is or has been
615 an officer of a corporation the permit of which has been
616 revoked. Any permit issued to a firm, association, or
617 corporation prohibited from obtaining a permit under this
618 chapter shall be revoked by the division.

619 (3) Upon approval of an application for a permit, the



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620 division shall issue to the applicant a permit for the place of
621 business or premises specified in the application. A permit is
622 not assignable and is valid only for the person in whose name
623 the permit is issued and for the place designated in the permit.
624 The permit shall be conspicuously displayed at all times at the
625 place for which issued.

626 Section 21. Section 569.33 Florida Statutes, is created to
627 read:

628 569.33 Consent to inspection and search without warrant.—An
629 applicant for a retail nicotine products dealer permit, by
630 accepting the permit when issued, agrees that the place or
631 premises covered by the permit is subject to inspection and
632 search without a search warrant by the division or its
633 authorized assistants, and by sheriffs, deputy sheriffs, or
634 police officers, to determine compliance with this part.

635 Section 22. Section 569.34, Florida Statutes, is created to
636 read:

637 569.34 Operating without a retail nicotine products dealer
638 permit; penalty.—

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

646 (2) A retail tobacco products dealer, as defined in s.
647 569.002(4), is not required to have a separate or additional
648 retail nicotine products dealer permit to deal, at retail, in



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649 nicotine products within the state, or allow a nicotine products
650 vending machine to be located on its premises in the state. Any
651 retail tobacco products dealer that deals, at retail, in
652 nicotine products or allows a tobacco products vending machine
653 to be located on its premises in the state, is subject to, and
654 must be in compliance with, this part.

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

660 (a) A person cited for an infraction under this section
661 may:

- 662 1. Post a \$500 bond; or
663 2. Sign and accept the citation indicating a promise to
664 appear.

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

- 666 1. Pay the fine, either by mail or in person, within 10
667 days after receiving the citation; or
668 2. If the person has posted bond, forfeit the bond by not
669 appearing at the scheduled hearing.

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

675 (d) The court, after a hearing, shall make a determination
676 as to whether an infraction has been committed. If the
677 commission of an infraction has been proven beyond a reasonable



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678 doubt, the court may impose a civil penalty in an amount that
679 may not exceed \$500.

680 (e) If a person is found by the court to have committed the
681 infraction, that person may appeal that finding to the circuit
682 court.

683 Section 23. Section 569.35, Florida Statutes, is created to
684 read:

685 569.35 Retail nicotine product dealers; administrative
686 penalties.—The division may suspend or revoke the permit of a
687 dealer, including the retail tobacco products dealer permit of a
688 retail tobacco products dealer as defined in s. 569.002(4), upon
689 sufficient cause appearing of the violation of any of the
690 provisions of this part, by a dealer, or by a dealer's agent or
691 employee. The division may also assess and accept an
692 administrative fine of up to \$1,000 against a dealer for each
693 violation. The division shall deposit all fines collected into
694 the General Revenue Fund as collected. An order imposing an
695 administrative fine becomes effective 15 days after the date of
696 the order. The division may suspend the imposition of a penalty
697 against a dealer, conditioned upon the dealer's compliance with
698 terms the division considers appropriate.

699 Section 24. Section 569.37, Florida Statutes, is created to
700 read:

701 569.37 Sale or delivery of nicotine products;
702 restrictions.—

703 (1) In order to prevent persons under 21 years of age from
704 purchasing or receiving nicotine products, the sale or delivery
705 of nicotine products is prohibited, except:

706 (a) When under the direct control or line of sight of the



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707 dealer or the dealer's agent or employee; or

708 (b) Sales from a vending machine are prohibited under
709 paragraph (a) and are only permissible from a machine that is
710 equipped with an operational lockout device that is under the
711 control of the dealer or the dealer's agent or employee who
712 directly regulates the sale of items through the machine by
713 triggering the lockout device to allow the dispensing of one
714 nicotine product. The lockout device must include a mechanism to
715 prevent the machine from functioning if the power source for the
716 lockout device fails or if the lockout device is disabled, and a
717 mechanism to ensure that only one nicotine product is dispensed
718 at a time.

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

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

725 (3) The provisions of subsections (1) and (2) shall not
726 apply to an establishment that prohibits persons under 21 years
727 of age on the licensed premises.

728 (4) A dealer or a dealer's agent or employee may require
729 proof of age of a purchaser of a nicotine product before selling
730 the product to that person.

731 Section 25. Section 569.38, Florida Statutes, is created to
732 read:

733 569.38 Gift of sample nicotine products and nicotine
734 dispensing devices.—The gift of sample nicotine products to any
735 person under the age of 21 by an entity permitted under this



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736 part, or by an employee of such entity, is prohibited and is
737 punishable as provided in s. 569.41.

738 Section 26. Section 569.381, Florida Statutes, is created
739 to read:

740 569.381 Responsible retail nicotine products dealers;
741 qualifications; mitigation of disciplinary penalties; diligent
742 management and supervision; presumption.-

743 (1) It is the intent of the Legislature to prevent the sale
744 of nicotine products to persons under 21 years of age and to
745 encourage retail nicotine products dealers to comply with
746 responsible practices in accordance with this section.

747 (2) To qualify as a responsible retail nicotine products
748 dealer, the dealer must establish and implement procedures
749 designed to ensure that the dealer's employees comply with this
750 part. The dealer must provide a training program for the
751 dealer's employees which addresses the use and sale of nicotine
752 products and which includes at least the following topics:

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

754 (b) Methods of recognizing and handling customers under 21
755 years of age.

756 (c) Procedures for proper examination of identification
757 cards in order to verify that customers are not under 21 years
758 of age.

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

761 (3) In determining penalties under s. 569.35, the division
762 may mitigate penalties imposed against a dealer because of an
763 employee's illegal sale of a nicotine product to a person under
764 21 years of age if the following conditions are met:



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765 (a) The dealer is qualified as a responsible dealer under
766 this section.

767 (b) The dealer provided the training program required under
768 subsection (2) to that employee before the illegal sale
769 occurred.

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

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

775 (4) The division shall develop and make available a model
776 nicotine products training program designed to ensure adherence
777 to this part by dealers and their employees which, if followed,
778 will qualify dealers as responsible dealers.

779 (5) Dealers shall exercise diligence in the management and
780 supervision of their premises and in the supervision and
781 training of their employees, agents, or servants. In proceedings
782 to impose penalties under s. 569.35, proof that employees,
783 agents, or servants of the dealer, while in the scope of their
784 employment, committed at least three violations of s. 569.41
785 during a 180-day period shall be prima facie evidence of a lack
786 of due diligence by the dealer in the management and supervision
787 of his or her premises and in the supervision and training of
788 employees, agents, officers, or servants.

789 (6) The division may consider qualification as a
790 responsible retail nicotine products dealer under this section
791 as evidence that the dealer properly exercised the diligence
792 required under this section.

793 Section 27. Section 569.39, Florida Statutes, is created to



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794 read:

795 569.39 Rulemaking authority.—The division shall adopt rules
796 to administer and enforce this part.

797 Section 28. Section 569.41, Florida Statutes, is created to
798 read:

799 569.41 Selling, delivering, bartering, furnishing, or
800 giving nicotine products to persons under 21 years of age;
801 criminal penalties; defense.—

802 (1) It is unlawful to sell, deliver, barter, furnish, or
803 give, directly or indirectly, to any person who is under 21
804 years of age, any nicotine product.

805 (2) Any person who violates subsection (1) commits a
806 misdemeanor of the second degree, punishable as provided in s.
807 775.082 or s. 775.083. However, any person who violates
808 subsection (1) for a second or subsequent time within 1 year
809 after the first violation commits a misdemeanor of the first
810 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

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

819 (c) Such person carefully checked a driver license or an
820 identification card issued by the state or another state of the
821 United States, a passport, or a United States armed services
822 identification card presented by the buyer or recipient and



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823 acted in good faith and in reliance upon the representation and
824 appearance of the buyer or recipient in the belief that the
825 buyer or recipient was 21 years of age or older.

826 Section 29. Section 569.42, Florida Statutes, is created to
827 read:

828 569.42 Possession, misrepresenting age or military service
829 to purchase, and purchase of nicotine products by persons under
830 21 years of age prohibited; penalties; jurisdiction; disposition
831 of fines.—

832 (1) It is unlawful for any person under 21 years of age to
833 knowingly possess any nicotine product. Any person under 21
834 years of age who violates this subsection commits a noncriminal
835 violation as provided in s. 775.08(3), punishable by:

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

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

842
843 Any second or subsequent violation not within the 12-week period
844 after the first violation is punishable as provided for a first
845 violation.

846 (2) It is unlawful for any person under 21 years of age to
847 misrepresent his or her age or military service for the purpose
848 of inducing a dealer or an agent or employee of the dealer to
849 sell, give, barter, furnish, or deliver any nicotine product, or
850 to purchase, or attempt to purchase, any nicotine product from a
851 person or a vending machine. Any person under 21 years of age



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852 who violates this subsection commits a noncriminal violation as
853 defined in s. 775.08(3), punishable by:

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

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

860
861 Any second or subsequent violation not within the 12-week period
862 after the first violation is punishable as provided for a first
863 violation.

864 (3) Any person under 21 years of age cited for committing a
865 noncriminal violation under this section must sign and accept a
866 civil citation indicating a promise to appear before the county
867 court or comply with the requirement for paying the fine and
868 must attend a school-approved anti-tobacco and anti-nicotine
869 program, if locally available. If a fine is assessed for a
870 violation of this section, the fine must be paid within 30 days
871 after the date of the citation or, if a court appearance is
872 mandatory, within 30 days after the date of the hearing.

873 (4) A person charged with a noncriminal violation under
874 this section must appear before the county court or comply with
875 the requirement for paying the fine. The court, after a hearing,
876 shall make a determination as to whether the noncriminal
877 violation was committed. If the court finds the violation was
878 committed, it shall impose an appropriate penalty as specified
879 in subsection (1) or subsection (2). A person who participates
880 in community service shall be considered an employee of the



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881 state for the purpose of chapter 440, for the duration of such
882 service.

883 (5) (a) If a person under 21 years of age is found by the
884 court to have committed a noncriminal violation under this
885 section and the person has failed to complete community service,
886 pay the fine as required by paragraph (1) (a) or paragraph
887 (2) (a), or attend a school-approved anti-tobacco and anti-
888 nicotine program, if locally available, the court may direct the
889 Department of Highway Safety and Motor Vehicles to withhold
890 issuance of or suspend the driver license or driving privilege
891 of that person for a period of 30 consecutive days.

892 (b) If a person under 21 years of age is found by the court
893 to have committed a noncriminal violation under this section and
894 that person has failed to pay the applicable fine as required by
895 paragraph (1) (b) or paragraph (2) (b), the court may direct the
896 Department of Highway Safety and Motor Vehicles to withhold
897 issuance of or suspend the driver license or driving privilege
898 of that person for a period of 45 consecutive days.

899 (6) Eighty percent of all civil penalties received by a
900 county court under this section shall be remitted by the clerk
901 of the court to the Department of Revenue for transfer to the
902 Department of Education to provide for teacher training and for
903 research and evaluation to reduce and prevent the use of
904 nicotine products by children. The remaining 20 percent of civil
905 penalties received by a county court under this section shall
906 remain with the clerk of the county court to cover
907 administrative costs.

908 Section 30. Section 569.43, Florida Statutes, is created to
909 read:



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910 569.43 Posting of a sign stating that the sale of nicotine
911 products or nicotine dispensing devices to persons under 21
912 years of age is unlawful; enforcement; penalty.-

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

916
917 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING
918 DEVICES TO PERSONS UNDER THE AGE OF 21 IS AGAINST
919 FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

920
921 (2) The division shall make available to dealers of
922 nicotine products signs that meet the requirements of subsection
923 (1).

924 (3) Any dealer that sells nicotine products shall provide
925 at the checkout counter in a location clearly visible to the
926 dealer or the dealer's agent or employee instructional material
927 in a calendar format or similar format to assist in determining
928 whether a person is of legal age to purchase nicotine products.
929 This point of sale material must contain substantially the
930 following language:

931
932 IF YOU WERE NOT BORN BEFORE THIS DATE

933 (insert date and applicable year)

934 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR NICOTINE
935 DISPENSING DEVICES.

936
937 Upon approval by the division, in lieu of a calendar a dealer
938 may use card readers, scanners, or other electronic or automated



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939 systems that can verify whether a person is of legal age to
940 purchase nicotine products. Failure to comply with the
941 provisions contained in this subsection shall result in
942 imposition of administrative penalties as provided in s. 569.35.

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

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

948 Section 31. Section 569.44, Florida Statutes, is created to
949 read:

950 569.44 Annual report.—The division shall report annually
951 with written findings to the Legislature and the Governor by
952 December 31, on the progress of implementing the enforcement
953 provisions of this part. This must include, but is not limited
954 to:

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

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

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

961 (4) The number of persons under age 21 cited for violations
962 of s. 569.42 and sanctions imposed as a result of citation.

963 Section 32. Section 569.45, Florida Statutes, is created to
964 read:

965 569.45 Mail order, Internet, and remote sales of nicotine
966 products; age verification.—

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



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968 (a) "Consumer" means a person in the state who comes into
969 possession of any nicotine product who, at the time of
970 possession, is not intending to sell or distribute the nicotine
971 product, or is not a retailer.

972 (b) "Delivery sale" means any sale of nicotine products to
973 a consumer in the state for which:

974 1. The consumer submits the order for the sale by
975 telephonic or other voice transmission, mail, delivery service,
976 or the Internet or other online service; or

977 2. The nicotine products are delivered by use of mail or a
978 delivery service.

979 (c) "Delivery service" means any person engaged in the
980 commercial delivery of letters, packages, or other containers.

981 (d) "Legal minimum purchase age" means the minimum age at
982 which an individual may legally purchase nicotine products in
983 the state.

984 (e) "Retailer" means any person who is required to obtain a
985 retail nicotine products dealer permit or a retail tobacco
986 products dealer permit, as defined in s. 569.002.

987 (f) "Shipping container" means a container in which
988 nicotine products are shipped in connection with a delivery
989 sale.

990 (g) "Shipping document" means a bill of lading, airbill,
991 United States Postal Service form, or any other document used to
992 verify the undertaking by a delivery service to deliver letters,
993 packages, or other containers.

994 (2) (a) A sale of nicotine products constituting a delivery
995 sale under paragraph (1) (c) is a delivery sale regardless of
996 whether the person accepting the order for the delivery sale is



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997 located inside or outside the state.

998 (b) A retailer must obtain a retail nicotine products
999 dealer permit or a retail tobacco products dealer permit, as
1000 defined in s. 569.002, from the division under the requirements
1001 of this chapter before accepting an order for a delivery sale.

1002 (c) A person may not make a delivery sale of nicotine
1003 products to any individual who is not 21 years of age or older.

1004 (d) Each person accepting an order for a delivery sale must
1005 comply with each of the following:

1006 1. The age verification requirements set forth in
1007 subsection (3).

1008 2. The disclosure requirements set forth in subsection (4).

1009 3. The shipping requirements set forth in subsection (5).

1010 (3) A person may not mail, ship, or otherwise deliver
1011 nicotine products in connection with an order for a delivery
1012 sale unless, before the first delivery to the consumer, the
1013 person accepting the order for the delivery sale:

1014 (a) Obtains from the person submitting the order a
1015 certification that includes:

1016 1. Reliable confirmation that the person is 21 years of age
1017 or older; and

1018 2. A statement signed by the person in writing and under
1019 penalty of perjury which:

1020 a. Certifies the address and date of birth of the person;
1021 and

1022 b. Confirms that the person wants to receive delivery sales
1023 from a nicotine products company and understands that, under the
1024 laws of the state, the following actions are illegal:

1025 (I) Signing another person's name to the certification;



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1026 (II) Selling nicotine products to individuals who are not
1027 21 years of age or older; and

1028 (III) Purchasing nicotine products, if the person making
1029 the purchase is not 21 years of age or older.

1030 (b) Makes a good faith effort to verify the information
1031 contained in the certification provided by the individual under
1032 paragraph (a) against a commercially available database that may
1033 be reasonably relied upon for accurate age information or
1034 obtains a photocopy or other image of a valid government-issued
1035 identification card stating the date of birth or age of the
1036 individual.

1037 (c) Provides to the individual, via electronic mail or
1038 other means, a notice meeting the requirements of subsection
1039 (4).

1040 (d) If an order for nicotine products is made pursuant to
1041 an advertisement on the Internet, receives payment for the
1042 delivery sale from the consumer by a credit or debit card issued
1043 in the name of the consumer, or by personal or company check of
1044 the consumer.

1045 (e) The person accepting the order for delivery sale shall
1046 submit, to each credit card acquiring company with which the
1047 person has credit card sales, identification information in an
1048 appropriate form and format so that the words "nicotine product"
1049 may be printed in the purchaser's credit card statement when a
1050 purchase of a nicotine product is made by credit card payment.

1051 (f) Makes a telephone call after 5 p.m. to the purchaser
1052 confirming the order before shipping the nicotine products. The
1053 telephone call may be a person-to-person call or a recorded
1054 message. The person accepting the order for delivery sale is not



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1055 required to speak directly with a person and may leave a message
1056 on an answering machine or through voice mail.

1057
1058 In addition to the requirements of this subsection, a person
1059 accepting an order for a delivery sale may request that a
1060 consumer provide an electronic mail address.

1061 (4) The notice described in paragraph (3)(c) must include
1062 prominent and clearly legible statements that sales of nicotine
1063 products are:

1064 (a) Illegal if made to individuals who are not 21 years of
1065 age or older.

1066 (b) Restricted to those individuals who provide verifiable
1067 proof of age in accordance with subsection (3).

1068 (5) Each person who mails, ships, or otherwise delivers
1069 nicotine products in connection with an order for a delivery
1070 sale must:

1071 (a) Include as part of the shipping documents, in a clear
1072 and conspicuous manner, the following statement: "Nicotine
1073 Products: Florida law prohibits shipping to individuals under 21
1074 years of age."

1075 (b) Use a method of mailing, shipping, or delivery which
1076 obligates the delivery service to require:

1077 1. The individual submitting the order for the delivery
1078 sale or another person 21 years of age or older who resides at
1079 the individual's address to sign his or her name to accept
1080 delivery of the shipping container. Proof of the legal minimum
1081 purchase age of the individual accepting delivery is required
1082 only if the individual appears to be under 30 years of age.

1083 2. Proof that the individual is either the addressee or the



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1084 individual who is 21 years of age or older designated by the
1085 addressee, in the form of a valid, government-issued
1086 identification card bearing a photograph of the individual who
1087 signs to accept delivery of the shipping container.

1088
1089 If the person accepting a purchase order for a delivery sale
1090 delivers the nicotine products without using a delivery service,
1091 the person must comply with all of the requirements of this
1092 section which apply to a delivery service. Any failure to comply
1093 with a requirement of this section constitutes a violation
1094 thereof.

1095 (6) This section does not apply to delivery sales of
1096 nicotine products to a retail nicotine products dealer or a
1097 retail tobacco products dealer, as defined in s. 569.002.

1098 (7) An individual 21 years of age or older who knowingly
1099 violates any provision of this section commits a misdemeanor of
1100 the second degree, punishable as provided in s. 775.082 or s.
1101 775.083.

1102 (8) The Attorney General, the Attorney General's designee,
1103 or a state attorney may bring an action in the appropriate court
1104 in the state to prevent or restrain violations of this section
1105 by any person.

1106 Section 33. Section 877.112, Florida Statutes, is repealed.

1107 Section 34. This act shall take effect October 1, 2021.

1108
1109 ===== T I T L E A M E N D M E N T =====

1110 And the title is amended as follows:

1111 Delete everything before the enacting clause
1112 and insert:



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1113 A bill to be entitled
1114 An act relating to tobacco and nicotine products;
1115 amending s. 210.095, F.S.; deleting the definition of
1116 the term "adult"; revising age limitations relating to
1117 mail order, Internet, and remote sales of tobacco
1118 products; amending s. 210.15, F.S.; requiring permits
1119 to be issued to persons or corporations whose officers
1120 are not under 21 years of age; amending s. 386.212,
1121 F.S.; providing that it is unlawful for persons under
1122 21 years of age to smoke tobacco or vape in, on, or
1123 within 1,000 feet of the real property comprising a
1124 public or private elementary, middle, or secondary
1125 school during specified hours; renaming ch. 569, F.S.;
1126 providing directives to the Division of Law Revision;
1127 amending s. 569.002, F.S.; defining the terms
1128 "nicotine product" and "nicotine dispensing device";
1129 conforming provisions to changes made by the act;
1130 amending ss. 569.003, 569.004, and 569.006, F.S.;
1131 conforming provisions to changes made by the act;
1132 amending s. 569.007, F.S.; revising age limitations
1133 relating to the sale and delivery of tobacco products;
1134 revising applicability; amending s. 569.0075, F.S.;
1135 revising age limitations relating to gifting sample
1136 tobacco products; amending s. 569.008, F.S.; revising
1137 legislative intent; revising qualification
1138 requirements for responsible retail tobacco products
1139 dealers; conforming provisions to changes made by the
1140 act; amending s. 569.009, F.S.; conforming a provision
1141 to changes made by the act; amending s. 569.101, F.S.;



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1142 revising age limitations relating to selling,
1143 delivering, bartering, furnishing, or giving tobacco
1144 products to certain persons; amending s. 569.11, F.S.;
1145 revising age limitations relating to possessing and
1146 obtaining tobacco products; amending s. 569.12, F.S.;
1147 expanding the authority of tobacco product enforcement
1148 officers to include nicotine products; amending s.
1149 569.14, F.S.; revising requirements for signage
1150 relating to tobacco products, nicotine products, and
1151 nicotine dispensing devices; conforming provisions to
1152 changes made by the act; amending s. 569.19, F.S.;
1153 conforming provisions to changes made by the act;
1154 creating s. 569.31, F.S.; defining terms; creating s.
1155 569.32, F.S.; requiring retail nicotine product
1156 dealers to acquire a permit; providing requirements
1157 and authorizations for such permit; creating s.
1158 569.33, F.S.; specifying that an applicant for a
1159 retail nicotine products dealer permit consents to
1160 certain inspections and searches upon accepting such
1161 permit; creating s. 569.34, F.S.; prohibiting certain
1162 persons, firms, associations, or corporations from
1163 operating without a permit; providing civil penalties;
1164 creating s. 569.35, F.S.; providing administrative
1165 penalties for retail nicotine product dealers under
1166 certain circumstances; requiring the Division of
1167 Alcoholic Beverages and Tobacco to deposit funds
1168 collected from administrative fines into the General
1169 Revenue Fund; creating s. 569.37, F.S.; providing
1170 restrictions on the sale or delivery of nicotine



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1171 products; creating s. 569.38, F.S.; prohibiting
1172 certain persons from gifting sample nicotine products
1173 to persons under a specified age; creating s. 569.381,
1174 F.S.; providing legislative intent; providing
1175 requirements for a dealer to qualify as a responsible
1176 retail nicotine products dealer; authorizing the
1177 division to mitigate certain penalties; requiring the
1178 division to develop and make available a nicotine
1179 products training program; requiring dealers to
1180 exercise diligence in the management and supervision
1181 of their premises and the supervision and training of
1182 certain persons; creating s. 569.39, F.S.; requiring
1183 the division to adopt rules; creating ss. 569.41 and
1184 569.42, F.S.; providing civil and criminal penalties
1185 relating to selling, delivering, bartering,
1186 furnishing, or giving nicotine products to certain
1187 persons and possessing and acquiring nicotine
1188 products, respectively; creating s. 569.43, F.S.;
1189 providing signage requirements relating to the sale of
1190 nicotine products or nicotine dispensing devices;
1191 providing criminal penalties; creating s. 569.44,
1192 F.S.; requiring the division to provide an annual
1193 report containing specified information to the
1194 Governor and the Legislature; creating s. 569.45,
1195 F.S.; defining terms; providing requirements for mail
1196 order, Internet, and remote sales of nicotine
1197 products; providing applicability; providing criminal
1198 penalties; repealing s. 877.112, F.S., relating to
1199 nicotine products and nicotine dispensing devices;



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providing an effective date.