

By the Committee on Regulated Industries; and Senator Hutson

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1                   A bill to be entitled  
2           An act relating to tobacco and nicotine products;  
3           amending s. 210.095, F.S.; deleting the definition of  
4           the term "adult"; revising age limitations relating to  
5           mail order, Internet, and remote sales of tobacco  
6           products; amending s. 210.15, F.S.; requiring permits  
7           to be issued to persons or corporations whose officers  
8           are not under 21 years of age; amending s. 386.212,  
9           F.S.; providing that it is unlawful for persons under  
10          21 years of age to smoke tobacco or vape in, on, or  
11          within 1,000 feet of the real property comprising a  
12          public or private elementary, middle, or secondary  
13          school during specified hours; renaming ch. 569, F.S.;  
14          providing directives to the Division of Law Revision;  
15          amending s. 569.002, F.S.; defining the terms  
16          "nicotine product" and "nicotine dispensing device";  
17          conforming provisions to changes made by the act;  
18          amending ss. 569.003, 569.004, and 569.006, F.S.;  
19          conforming provisions to changes made by the act;  
20          amending s. 569.007, F.S.; revising age limitations  
21          relating to the sale and delivery of tobacco products;  
22          revising applicability; amending s. 569.0075, F.S.;  
23          revising age limitations relating to gifting sample  
24          tobacco products; amending s. 569.008, F.S.; revising  
25          legislative intent; revising qualification  
26          requirements for responsible retail tobacco products  
27          dealers; conforming provisions to changes made by the  
28          act; amending s. 569.009, F.S.; conforming a provision  
29          to changes made by the act; amending s. 569.101, F.S.;

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30 revising age limitations relating to selling,  
31 delivering, bartering, furnishing, or giving tobacco  
32 products to certain persons; amending s. 569.11, F.S.;  
33 revising age limitations relating to possessing and  
34 obtaining tobacco products; amending s. 569.12, F.S.;  
35 expanding the authority of tobacco product enforcement  
36 officers to include nicotine products; amending s.  
37 569.14, F.S.; revising requirements for signage  
38 relating to tobacco products, nicotine products, and  
39 nicotine dispensing devices; conforming provisions to  
40 changes made by the act; amending s. 569.19, F.S.;  
41 conforming provisions to changes made by the act;  
42 creating s. 569.31, F.S.; defining terms; creating s.  
43 569.32, F.S.; requiring retail nicotine product  
44 dealers to acquire a permit; providing requirements  
45 and authorizations for such permit; creating s.  
46 569.33, F.S.; specifying that an applicant for a  
47 retail nicotine products dealer permit consents to  
48 certain inspections and searches upon accepting such  
49 permit; creating s. 569.34, F.S.; prohibiting certain  
50 persons, firms, associations, or corporations from  
51 operating without a permit; providing civil penalties;  
52 creating s. 569.35, F.S.; providing administrative  
53 penalties for retail nicotine product dealers under  
54 certain circumstances; requiring the Division of  
55 Alcoholic Beverages and Tobacco to deposit funds  
56 collected from administrative fines into the General  
57 Revenue Fund; creating s. 569.37, F.S.; providing  
58 restrictions on the sale or delivery of nicotine

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59 products; creating s. 569.38, F.S.; prohibiting  
60 certain persons from gifting sample nicotine products  
61 to persons under a specified age; creating s. 569.381,  
62 F.S.; providing legislative intent; providing  
63 requirements for a dealer to qualify as a responsible  
64 retail nicotine products dealer; authorizing the  
65 division to mitigate certain penalties; requiring the  
66 division to develop and make available a nicotine  
67 products training program; requiring dealers to  
68 exercise diligence in the management and supervision  
69 of their premises and the supervision and training of  
70 certain persons; creating s. 569.39, F.S.; requiring  
71 the division to adopt rules; creating ss. 569.41 and  
72 569.42, F.S.; providing civil and criminal penalties  
73 relating to selling, delivering, bartering,  
74 furnishing, or giving nicotine products to certain  
75 persons and possessing and acquiring nicotine  
76 products, respectively; creating s. 569.43, F.S.;  
77 providing signage requirements relating to the sale of  
78 nicotine products or nicotine dispensing devices;  
79 providing criminal penalties; creating s. 569.44,  
80 F.S.; requiring the division to provide an annual  
81 report containing specified information to the  
82 Governor and the Legislature; creating s. 569.45,  
83 F.S.; defining terms; providing requirements for mail  
84 order, Internet, and remote sales of nicotine  
85 products; providing applicability; providing criminal  
86 penalties; repealing s. 877.112, F.S., relating to  
87 nicotine products and nicotine dispensing devices;

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88 providing an effective date.

89

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

91

92 Section 1. Paragraph (a) of subsection (1), paragraphs (a)  
93 and (c) of subsection (2), paragraph (a) of subsection (3),  
94 paragraph (a) of subsection (4), paragraphs (a) and (b) of  
95 subsection (5), and paragraphs (a), (b), (e), and (g) of  
96 subsection (8) of section 210.095, Florida Statutes, are amended  
97 to read:

98 210.095 Mail order, Internet, and remote sales of tobacco  
99 products; age verification.—

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

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

103 (2)

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

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

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

115 (a) Obtains from the individual submitting the order a  
116 certification that includes:

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

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

121 a. Certifies the address and date of birth of the  
122 individual; and

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

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

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

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

131

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

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

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

140

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

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

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146 (a) Include as part of the shipping documents, in a clear  
147 and conspicuous manner, the following statement: "Tobacco  
148 Products: Florida law prohibits shipping to individuals under 21  
149 ~~18~~ years of age and requires the payment of all applicable  
150 taxes."

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

153 1. The individual submitting the order for the delivery  
154 sale or another individual who is 21 years of age or older ~~adult~~  
155 who resides at the individual's address to sign his or her name  
156 to accept delivery of the shipping container. Proof of the legal  
157 minimum purchase age of the individual accepting delivery is  
158 required only if the individual appears to be under 30 ~~27~~ years  
159 of age.

160 2. Proof that the individual is either the addressee or the  
161 individual who is 21 years of age or older ~~adult~~ designated by  
162 the addressee, in the form of a valid, government-issued  
163 identification card bearing a photograph of the individual who  
164 signs to accept delivery of the shipping container.

165  
166 If the person accepting a purchase order for a delivery sale  
167 delivers the tobacco products without using a delivery service,  
168 the person must comply with all of the requirements of this  
169 section which apply to a delivery service. Any failure to comply  
170 with a requirement of this section constitutes a violation  
171 thereof.

172 (8) (a) Except as otherwise provided in this section, a  
173 violation of this section by a person other than an individual  
174 who is not 21 years of age or older ~~an adult~~ is a misdemeanor of

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175 the first degree, punishable as provided in s. 775.082 or s.  
176 775.083, and:

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

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

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

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

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

200 Section 2. Paragraph (b) of subsection (1) of section  
201 210.15, Florida Statutes, is amended to read:

202 210.15 Permits.—

203 (1)

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204 (b) Permits shall be issued only to persons of good moral  
205 character who are not less than 21 ~~18~~ years of age. Permits to  
206 corporations shall be issued only to corporations whose officers  
207 are of good moral character and not less than 21 ~~18~~ years of  
208 age. There shall be no exemptions from the permit fees herein  
209 provided to any persons, association of persons, or corporation,  
210 any law to the contrary notwithstanding.

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

213 386.212 Smoking and vaping prohibited near school property;  
214 penalty.—

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

221 Section 4. Chapter 569, Florida Statutes, entitled "Tobacco  
222 Products," is renamed "Tobacco and Nicotine Products."

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

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

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

230 Section 6. Section 569.002, Florida Statutes, is amended to  
231 read:

232 569.002 Definitions.—As used in this part ~~chapter~~, the



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233 term:

234 (1) "Dealer" is synonymous with the term "retail tobacco  
235 products dealer."

236 (2) "Division" means the Division of Alcoholic Beverages  
237 and Tobacco of the Department of Business and Professional  
238 Regulation.

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

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

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

245 (6)~~(4)~~ "Retail tobacco products dealer" means the holder of  
246 a retail tobacco products dealer permit.

247 (7)~~(5)~~ "Retail tobacco products dealer permit" means a  
248 permit issued by the division pursuant to s. 569.003.

249 (8)~~(6)~~ "Tobacco products" includes loose tobacco leaves,  
250 and products made from tobacco leaves, in whole or in part, and  
251 cigarette wrappers, which can be used for smoking, sniffing, or  
252 chewing.

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

265        Section 7. Paragraph (c) of subsection (1) of section  
266 569.003, Florida Statutes, is amended to read:

267        569.003 Retail tobacco products dealer permits;  
268 application; qualifications; fees; renewal; duplicates.-

269        (1)

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

277        Section 8. Section 569.004, Florida Statutes, is amended to  
278 read:

279        569.004 Consent to inspection and search without warrant.-  
280 An applicant for a permit, by accepting the permit when issued,  
281 agrees that the place or premises covered by the permit is  
282 subject to inspection and search without a search warrant by the  
283 division or its authorized assistants, and by sheriffs, deputy  
284 sheriffs, or police officers, to determine compliance with this  
285 chapter, including part II of this chapter if the applicant  
286 deals, at retail, in nicotine products within the state or  
287 allows a nicotine products vending machine to be located on its  
288 premises within the state.

289        Section 9. Section 569.006, Florida Statutes, is amended to  
290 read:

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291           569.006 Retail tobacco products dealers; administrative  
292 penalties.—The division may suspend or revoke the permit of the  
293 dealer upon sufficient cause appearing of the violation of any  
294 of the provisions of this chapter, including part II of this  
295 chapter if the dealer deals, at retail, in nicotine products  
296 within the state or allows a nicotine products vending machine  
297 to be located on its premises within the state, by a dealer or  
298 by a dealer's agent or employee. The division may also assess  
299 and accept administrative fines of up to \$1,000 against a dealer  
300 for each violation. The division shall deposit all fines  
301 collected into the General Revenue Fund as collected. An order  
302 imposing an administrative fine becomes effective 15 days after  
303 the date of the order. The division may suspend the imposition  
304 of a penalty against a dealer, conditioned upon the dealer's  
305 compliance with terms the division considers appropriate.

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

308           569.007 Sale or delivery of tobacco products;  
309 restrictions.—

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

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

315           (b) Sales from a vending machine are prohibited under the  
316 provisions of paragraph (1)(a) and are only permissible from a  
317 machine that is equipped with an operational lockout device  
318 which is under the control of the dealer or the dealer's agent  
319 or employee who directly regulates the sale of items through the

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320 machine by triggering the lockout device to allow the dispensing  
321 of one tobacco product. The lockout device must include a  
322 mechanism to prevent the machine from functioning if the power  
323 source for the lockout device fails or if the lockout device is  
324 disabled, and a mechanism to ensure that only one tobacco  
325 product is dispensed at a time.

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

329 Section 11. Section 569.0075, Florida Statutes, is amended  
330 to read:

331 569.0075 Gift of sample tobacco products prohibited.—The  
332 gift of sample tobacco products to any person under the age of  
333 21 ~~18~~ by an entity licensed or permitted under the provisions of  
334 chapter 210 or this part ~~chapter~~, or by an employee of such  
335 entity, is prohibited and is punishable as provided in s.  
336 569.101.

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

340 569.008 Responsible retail tobacco products dealers;  
341 qualifications; mitigation of disciplinary penalties; diligent  
342 management and supervision; presumption.—

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

347 (2) To qualify as a responsible retail tobacco products  
348 dealer, the dealer must establish and implement procedures

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349 designed to ensure that the dealer's employees comply with the  
350 provisions of this part ~~chapter~~. The dealer must provide a  
351 training program for the dealer's employees which addresses the  
352 use and sale of tobacco products and which includes at least the  
353 following topics:

354 (b) Methods of recognizing and handling customers under 21  
355 ~~18~~ years of age.

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

359 (3) In determining penalties under s. 569.006, the division  
360 may mitigate penalties imposed against a dealer because of an  
361 employee's illegal sale of a tobacco product to a person under  
362 21 ~~18~~ years of age if the following conditions are met:

363 (a) The dealer is qualified as a responsible dealer under  
364 this section.

365 (b) The dealer provided the training program required under  
366 subsection (2) to that employee before the illegal sale  
367 occurred.

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

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

373 Section 13. Section 569.009, Florida Statutes, is amended  
374 to read:

375 569.009 Rulemaking authority.—The division shall adopt any  
376 rules necessary to administer and enforce the provisions of this  
377 part ~~chapter~~.

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378 Section 14. Section 569.101, Florida Statutes, is amended  
379 to read:

380 569.101 Selling, delivering, bartering, furnishing, or  
381 giving tobacco products to persons under 21 ~~18~~ years of age;  
382 criminal penalties; defense.—

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

386 (2) Any person who violates subsection (1) commits a  
387 misdemeanor of the second degree, punishable as provided in s.  
388 775.082 or s. 775.083. However, any person who violates  
389 subsection (1) for a second or subsequent time within 1 year of  
390 the first violation, commits a misdemeanor of the first degree,  
391 punishable as provided in s. 775.082 or s. 775.083.

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

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

397 (b) The appearance of the buyer or recipient was such that  
398 a prudent person would believe the buyer or recipient to be 21  
399 ~~18~~ years of age or older; and

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

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407 Section 15. Section 569.11, Florida Statutes, is amended to  
408 read:

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

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

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

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

442

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

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

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



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

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

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

490 Section 16. Section 569.12, Florida Statutes, is amended to  
491 read:

492 569.12 Jurisdiction; tobacco product and nicotine product  
493 enforcement officers or agents; enforcement.—

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494 (1) In addition to the Division of Alcoholic Beverages and  
495 Tobacco of the Department of Business and Professional  
496 Regulation, any law enforcement officer certified under s.  
497 943.10(1), (6), or (8) shall enforce the provisions of this  
498 chapter.

499 (2) (a) A county or municipality may designate certain of  
500 its employees or agents as tobacco product and nicotine product  
501 enforcement officers. The training and qualifications of the  
502 employees or agents for such designation shall be determined by  
503 the county or the municipality. Nothing in this section shall be  
504 construed to permit the carrying of firearms or other weapons by  
505 a tobacco product and nicotine product enforcement agent, nor  
506 does designation as a tobacco product and nicotine product  
507 enforcement officer provide the employee or agent with the power  
508 of arrest or subject the employee or agent to the provisions of  
509 ss. 943.085-943.255. Nothing in this section amends, alters, or  
510 contravenes the provisions of any state-administered retirement  
511 system or any state-supported retirement system established by  
512 general law.

513 (b) A tobacco and nicotine product enforcement officer is  
514 authorized to issue a citation to a person under the age of 21  
515 ~~18~~ when, based upon personal investigation, the officer has  
516 reasonable cause to believe that the person has committed a  
517 civil infraction in violation of s. 386.212, ~~or~~ s. 569.11, or s.  
518 569.42.

519 (3) A correctional probation officer as defined in s.  
520 943.10(3) is authorized to issue a citation to a person under  
521 the age of 21 ~~18~~ when, based upon personal investigation, the  
522 officer has reasonable cause to believe that the person has

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523 committed a civil infraction in violation of s. 569.11 or s.  
524 569.42.

525 (4) A citation issued to any person violating the  
526 provisions of s. 569.11 or s. 569.42 shall be in a form  
527 prescribed by the Division of Alcoholic Beverages and Tobacco of  
528 the Department of Business and Professional Regulation and shall  
529 contain:

530 (a) The date and time of issuance.

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

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

534 (d) The facts constituting reasonable cause.

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

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

537 (g) The procedure for the person to follow in order to  
538 contest the citation, perform the required community service,  
539 attend the required anti-tobacco or anti-tobacco and anti-  
540 nicotine program, or to pay the civil penalty.

541 Section 17. Section 569.14, Florida Statutes, is amended to  
542 read:

543 569.14 Posting of a sign stating that the sale of tobacco  
544 products or nicotine products to persons under 21 ~~18~~ years of  
545 age is unlawful; enforcement; penalty.—

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

549  
550 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE  
551 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS

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552 REQUIRED FOR PURCHASE.

553

554 (2) A dealer that sells tobacco products and nicotine  
555 products or nicotine dispensing devices, ~~as defined in s.~~  
556 ~~877.112,~~ may use a sign that substantially states the following:

557

558 THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR  
559 NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE  
560 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS  
561 REQUIRED FOR PURCHASE.

562

563 A dealer that uses a sign as described in this subsection meets  
564 the signage requirements of subsection (1) and s. 569.43(1) ~~s.~~  
565 ~~877.112.~~

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

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

576

577 IF YOU WERE NOT BORN BEFORE THIS DATE

578 (insert date and applicable year)

579 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS,  
580 OR NICOTINE DISPENSING DEVICES.

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581

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

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

590 (6) Any person who fails to comply with subsection (1) is  
591 guilty of a misdemeanor of the second degree, punishable as  
592 provided in s. 775.082 or s. 775.083.

593 Section 18. Section 569.19, Florida Statutes, is amended to  
594 read:

595 569.19 Annual report.—The division shall report annually  
596 with written findings to the Legislature and the Governor by  
597 December 31, on the progress of implementing the enforcement  
598 provisions of this part ~~chapter~~. This must include, but is not  
599 limited to:

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

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

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

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

609 Section 19. Section 569.31, Florida Statutes, is created to

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610 read:

611 569.31 Definitions.—As used in this part, the term:612 (1) "Dealer" is synonymous with the term "retail nicotine  
613 products dealer."614 (2) "Division" means the Division of Alcoholic Beverages  
615 and Tobacco of the Department of Business and Professional  
616 Regulation.617 (3) "Nicotine dispensing device" means any product that  
618 employs an electronic, chemical, or mechanical means to produce  
619 vapor or aerosol from a nicotine product, including, but not  
620 limited to, an electronic cigarette, electronic cigar,  
621 electronic cigarillo, electronic pipe, or other similar device  
622 or product, any replacement cartridge for such device, and any  
623 other container of nicotine in a solution or other form intended  
624 to be used with or within an electronic cigarette, electronic  
625 cigar, electronic cigarillo, electronic pipe, or other similar  
626 device or product.627 (4) "Nicotine product" means any product that contains  
628 nicotine, including liquid nicotine, which is intended for human  
629 consumption, whether inhaled, chewed, absorbed, dissolved, or  
630 ingested by any means. The term also includes any nicotine  
631 dispensing device. The term does not include a:632 (a) Tobacco product, as defined in s. 569.002;633 (b) Product regulated as a drug or device by the United  
634 States Food and Drug Administration under Chapter V of the  
635 Federal Food, Drug, and Cosmetic Act; or636 (c) Product that contains incidental nicotine.637 (5) "Permit" is synonymous with the term "retail nicotine  
638 products dealer permit."

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

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

643 (8) "Self-service merchandising" means the open display of  
644 nicotine products, whether packaged or otherwise, for direct  
645 retail customer access and handling before purchase without the  
646 intervention or assistance of the dealer or the dealer's owner,  
647 employee, or agent. An open display of such products and devices  
648 includes the use of an open display unit.

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

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

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

654 Section 20. Section 569.32, Florida Statutes, is created to  
655 read:

656 569.32 Retail nicotine products dealer permits;  
657 application; qualifications; renewal; duplicates.-

658 (1)(a) Each person, firm, association, or corporation that  
659 seeks to deal, at retail, in nicotine products within the state,  
660 or to allow a nicotine products vending machine to be located on  
661 its premises in the state, must obtain a retail nicotine  
662 products dealer permit for each place of business or premises at  
663 which nicotine products are sold. Each dealer owning, leasing,  
664 furnishing, or operating vending machines through which nicotine  
665 products are sold must obtain a permit for each machine and  
666 shall post the permit in a conspicuous place on or near the  
667 machine; however, if the dealer has more than one vending

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668 machine at a single location or if nicotine products are sold  
669 both over the counter and through a vending machine at a single  
670 location, the dealer need obtain only one permit for that  
671 location.

672 (b) Application for a permit must be made on a form  
673 furnished by the division and must set forth the name under  
674 which the applicant transacts or intends to transact business,  
675 the address of the location of the applicant's place of business  
676 within the state, and any other information the division  
677 requires. If the applicant has or intends to have more than one  
678 place of business dealing in nicotine products within the state,  
679 a separate application must be made for each place of business.  
680 If the applicant is a firm or an association, the application  
681 must set forth the names and addresses of the persons  
682 constituting the firm or association; if the applicant is a  
683 corporation, the application must set forth the names and  
684 addresses of the principal officers of the corporation. The  
685 application must also set forth any other information prescribed  
686 by the division for the purpose of identifying the applicant  
687 firm, association, or corporation. The application must be  
688 signed and verified by oath or affirmation by the owner, if a  
689 sole proprietor, or, if the owner is a firm, association, or  
690 partnership, by the members or partners thereof, or, if the  
691 owner is a corporation, by an executive officer of the  
692 corporation or by a person authorized by the corporation to sign  
693 the application, together with the written evidence of this  
694 authority.

695 (2) (a) Permits may be issued only to persons who are 21  
696 years of age or older or to corporations the officers of which



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697 are 21 years of age or older.

698 (b) The division may refuse to issue a permit to any  
699 person, firm, association, or corporation the permit of which  
700 has been revoked, to any corporation an officer of which has had  
701 his or her permit revoked, or to any person who is or has been  
702 an officer of a corporation the permit of which has been  
703 revoked. Any permit issued to a firm, association, or  
704 corporation prohibited from obtaining a permit under this  
705 chapter shall be revoked by the division.

706 (3) Upon approval of an application for a permit, the  
707 division shall issue to the applicant a permit for the place of  
708 business or premises specified in the application. A permit is  
709 not assignable and is valid only for the person in whose name  
710 the permit is issued and for the place designated in the permit.  
711 The permit shall be conspicuously displayed at all times at the  
712 place for which issued.

713 Section 21. Section 569.33 Florida Statutes, is created to  
714 read:

715 569.33 Consent to inspection and search without warrant.—An  
716 applicant for a retail nicotine products dealer permit, by  
717 accepting the permit when issued, agrees that the place or  
718 premises covered by the permit is subject to inspection and  
719 search without a search warrant by the division or its  
720 authorized assistants, and by sheriffs, deputy sheriffs, or  
721 police officers, to determine compliance with this part.

722 Section 22. Section 569.34, Florida Statutes, is created to  
723 read:

724 569.34 Operating without a retail nicotine products dealer  
725 permit; penalty.—

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

733 (2) A retail tobacco products dealer, as defined in s.  
734 569.002(4), is not required to have a separate or additional  
735 retail nicotine products dealer permit to deal, at retail, in  
736 nicotine products within the state, or allow a nicotine products  
737 vending machine to be located on its premises in the state. Any  
738 retail tobacco products dealer that deals, at retail, in  
739 nicotine products or allows a tobacco products vending machine  
740 to be located on its premises in the state, is subject to, and  
741 must be in compliance with, this part.

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

747 (a) A person cited for an infraction under this section  
748 may:

749 1. Post a \$500 bond; or  
750 2. Sign and accept the citation indicating a promise to  
751 appear.

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

753 1. Pay the fine, either by mail or in person, within 10  
754 days after receiving the citation; or

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755 2. If the person has posted bond, forfeit the bond by not  
756 appearing at the scheduled hearing.

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

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

767 (e) If a person is found by the court to have committed the  
768 infraction, that person may appeal that finding to the circuit  
769 court.

770 Section 23. Section 569.35, Florida Statutes, is created to  
771 read:

772 569.35 Retail nicotine product dealers; administrative  
773 penalties.—The division may suspend or revoke the permit of a  
774 dealer, including the retail tobacco products dealer permit of a  
775 retail tobacco products dealer as defined in s. 569.002(4), upon  
776 sufficient cause appearing of the violation of any of the  
777 provisions of this part, by a dealer, or by a dealer's agent or  
778 employee. The division may also assess and accept an  
779 administrative fine of up to \$1,000 against a dealer for each  
780 violation. The division shall deposit all fines collected into  
781 the General Revenue Fund as collected. An order imposing an  
782 administrative fine becomes effective 15 days after the date of  
783 the order. The division may suspend the imposition of a penalty

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784 against a dealer, conditioned upon the dealer's compliance with  
785 terms the division considers appropriate.

786 Section 24. Section 569.37, Florida Statutes, is created to  
787 read:

788 569.37 Sale or delivery of nicotine products;  
789 restrictions.—

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

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

795 (b) Sales from a vending machine are prohibited under  
796 paragraph (a) and are only permissible from a machine that is  
797 equipped with an operational lockout device that is under the  
798 control of the dealer or the dealer's agent or employee who  
799 directly regulates the sale of items through the machine by  
800 triggering the lockout device to allow the dispensing of one  
801 nicotine product. The lockout device must include a mechanism to  
802 prevent the machine from functioning if the power source for the  
803 lockout device fails or if the lockout device is disabled, and a  
804 mechanism to ensure that only one nicotine product is dispensed  
805 at a time.

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

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

812 (3) The provisions of subsections (1) and (2) shall not

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813 apply to an establishment that prohibits persons under 21 years  
814 of age on the licensed premises.

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

818 Section 25. Section 569.38, Florida Statutes, is created to  
819 read:

820 569.38 Gift of sample nicotine products and nicotine  
821 dispensing devices.—The gift of sample nicotine products to any  
822 person under the age of 21 by an entity permitted under this  
823 part, or by an employee of such entity, is prohibited and is  
824 punishable as provided in s. 569.41.

825 Section 26. Section 569.381, Florida Statutes, is created  
826 to read:

827 569.381 Responsible retail nicotine products dealers;  
828 qualifications; mitigation of disciplinary penalties; diligent  
829 management and supervision; presumption.—

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

834 (2) To qualify as a responsible retail nicotine products  
835 dealer, the dealer must establish and implement procedures  
836 designed to ensure that the dealer's employees comply with this  
837 part. The dealer must provide a training program for the  
838 dealer's employees which addresses the use and sale of nicotine  
839 products and which includes at least the following topics:

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

841 (b) Methods of recognizing and handling customers under 21

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842 years of age.

843 (c) Procedures for proper examination of identification  
844 cards in order to verify that customers are not under 21 years  
845 of age.

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

848 (3) In determining penalties under s. 569.35, the division  
849 may mitigate penalties imposed against a dealer because of an  
850 employee's illegal sale of a nicotine product to a person under  
851 21 years of age if the following conditions are met:

852 (a) The dealer is qualified as a responsible dealer under  
853 this section.

854 (b) The dealer provided the training program required under  
855 subsection (2) to that employee before the illegal sale  
856 occurred.

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

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

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

866 (5) Dealers shall exercise diligence in the management and  
867 supervision of their premises and in the supervision and  
868 training of their employees, agents, or servants. In proceedings  
869 to impose penalties under s. 569.35, proof that employees,  
870 agents, or servants of the dealer, while in the scope of their

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871 employment, committed at least three violations of s. 569.41  
872 during a 180-day period shall be prima facie evidence of a lack  
873 of due diligence by the dealer in the management and supervision  
874 of his or her premises and in the supervision and training of  
875 employees, agents, officers, or servants.

876 (6) The division may consider qualification as a  
877 responsible retail nicotine products dealer under this section  
878 as evidence that the dealer properly exercised the diligence  
879 required under this section.

880 Section 27. Section 569.39, Florida Statutes, is created to  
881 read:

882 569.39 Rulemaking authority.—The division shall adopt rules  
883 to administer and enforce this part.

884 Section 28. Section 569.41, Florida Statutes, is created to  
885 read:

886 569.41 Selling, delivering, bartering, furnishing, or  
887 giving nicotine products to persons under 21 years of age;  
888 criminal penalties; defense.—

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

892 (2) Any person who violates subsection (1) commits a  
893 misdemeanor of the second degree, punishable as provided in s.  
894 775.082 or s. 775.083. However, any person who violates  
895 subsection (1) for a second or subsequent time within 1 year  
896 after the first violation commits a misdemeanor of the first  
897 degree, punishable as provided in s. 775.082 or s. 775.083.

898 (3) A person charged with a violation of subsection (1) has  
899 a complete defense if, at the time the nicotine product was

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900 sold, delivered, bartered, furnished, or given:

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

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

906 (c) Such person carefully checked a driver license or an  
907 identification card issued by the state or another state of the  
908 United States, a passport, or a United States armed services  
909 identification card presented by the buyer or recipient and  
910 acted in good faith and in reliance upon the representation and  
911 appearance of the buyer or recipient in the belief that the  
912 buyer or recipient was 21 years of age or older.

913 Section 29. Section 569.42, Florida Statutes, is created to  
914 read:

915 569.42 Possession, misrepresenting age or military service  
916 to purchase, and purchase of nicotine products by persons under  
917 21 years of age prohibited; penalties; jurisdiction; disposition  
918 of fines.—

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

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

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



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929

930 Any second or subsequent violation not within the 12-week period  
931 after the first violation is punishable as provided for a first  
932 violation.

933 (2) It is unlawful for any person under 21 years of age to  
934 misrepresent his or her age or military service for the purpose  
935 of inducing a dealer or an agent or employee of the dealer to  
936 sell, give, barter, furnish, or deliver any nicotine product, or  
937 to purchase, or attempt to purchase, any nicotine product from a  
938 person or a vending machine. Any person under 21 years of age  
939 who violates this subsection commits a noncriminal violation as  
940 defined in s. 775.08(3), punishable by:

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

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

947

948 Any second or subsequent violation not within the 12-week period  
949 after the first violation is punishable as provided for a first  
950 violation.

951 (3) Any person under 21 years of age cited for committing a  
952 noncriminal violation under this section must sign and accept a  
953 civil citation indicating a promise to appear before the county  
954 court or comply with the requirement for paying the fine and  
955 must attend a school-approved anti-tobacco and anti-nicotine  
956 program, if locally available. If a fine is assessed for a  
957 violation of this section, the fine must be paid within 30 days

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958 after the date of the citation or, if a court appearance is  
959 mandatory, within 30 days after the date of the hearing.

960 (4) A person charged with a noncriminal violation under  
961 this section must appear before the county court or comply with  
962 the requirement for paying the fine. The court, after a hearing,  
963 shall make a determination as to whether the noncriminal  
964 violation was committed. If the court finds the violation was  
965 committed, it shall impose an appropriate penalty as specified  
966 in subsection (1) or subsection (2). A person who participates  
967 in community service shall be considered an employee of the  
968 state for the purpose of chapter 440, for the duration of such  
969 service.

970 (5) (a) If a person under 21 years of age is found by the  
971 court to have committed a noncriminal violation under this  
972 section and the person has failed to complete community service,  
973 pay the fine as required by paragraph (1) (a) or paragraph  
974 (2) (a), or attend a school-approved anti-tobacco and anti-  
975 nicotine program, if locally available, the court may direct the  
976 Department of Highway Safety and Motor Vehicles to withhold  
977 issuance of or suspend the driver license or driving privilege  
978 of that person for a period of 30 consecutive days.

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

986 (6) Eighty percent of all civil penalties received by a

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987 county court under this section shall be remitted by the clerk  
 988 of the court to the Department of Revenue for transfer to the  
 989 Department of Education to provide for teacher training and for  
 990 research and evaluation to reduce and prevent the use of  
 991 nicotine products by children. The remaining 20 percent of civil  
 992 penalties received by a county court under this section shall  
 993 remain with the clerk of the county court to cover  
 994 administrative costs.

995 Section 30. Section 569.43, Florida Statutes, is created to  
 996 read:

997 569.43 Posting of a sign stating that the sale of nicotine  
 998 products or nicotine dispensing devices to persons under 21  
 999 years of age is unlawful; enforcement; penalty.-

1000 (1) A dealer that sells nicotine products shall post a  
 1001 clear and conspicuous sign in each place of business at which  
 1002 such products are sold which substantially states the following:  
 1003

1004 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING  
 1005 DEVICES TO PERSONS UNDER THE AGE OF 21 IS AGAINST  
 1006 FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.  
 1007

1008 (2) The division shall make available to dealers of  
 1009 nicotine products signs that meet the requirements of subsection

1010 (1).

1011 (3) Any dealer that sells nicotine products shall provide  
 1012 at the checkout counter in a location clearly visible to the  
 1013 dealer or the dealer's agent or employee instructional material  
 1014 in a calendar format or similar format to assist in determining  
 1015 whether a person is of legal age to purchase nicotine products.

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1016 This point of sale material must contain substantially the  
1017 following language:

1019 IF YOU WERE NOT BORN BEFORE THIS DATE

1020 (insert date and applicable year)

1021 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR NICOTINE  
1022 DISPENSING DEVICES.

1023  
1024 Upon approval by the division, in lieu of a calendar a dealer  
1025 may use card readers, scanners, or other electronic or automated  
1026 systems that can verify whether a person is of legal age to  
1027 purchase nicotine products. Failure to comply with the  
1028 provisions contained in this subsection shall result in  
1029 imposition of administrative penalties as provided in s. 569.35.

1030 (4) The division, through its agents and inspectors, shall  
1031 enforce this section.

1032 (5) Any person who fails to comply with subsection (1)  
1033 commits a misdemeanor of the second degree, punishable as  
1034 provided in s. 775.082 or s. 775.083.

1035 Section 31. Section 569.44, Florida Statutes, is created to  
1036 read:

1037 569.44 Annual report.—The division shall report annually  
1038 with written findings to the Legislature and the Governor by  
1039 December 31, on the progress of implementing the enforcement  
1040 provisions of this part. This must include, but is not limited  
1041 to:

1042 (1) The number and results of compliance visits.

1043 (2) The number of violations for failure of a retailer to  
1044 hold a valid permit.

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1045 (3) The number of violations for selling nicotine products  
1046 to persons under age 21, and the results of administrative  
1047 hearings on the above and related issues.

1048 (4) The number of persons under age 21 cited for violations  
1049 of s. 569.42 and sanctions imposed as a result of citation.

1050 Section 32. Section 569.45, Florida Statutes, is created to  
1051 read:

1052 569.45 Mail order, Internet, and remote sales of nicotine  
1053 products; age verification.-

1054 (1) For purposes of this section, the term:

1055 (a) "Consumer" means a person in the state who comes into  
1056 possession of any nicotine product who, at the time of  
1057 possession, is not intending to sell or distribute the nicotine  
1058 product, or is not a retailer.

1059 (b) "Delivery sale" means any sale of nicotine products to  
1060 a consumer in the state for which:

1061 1. The consumer submits the order for the sale by  
1062 telephonic or other voice transmission, mail, delivery service,  
1063 or the Internet or other online service; or

1064 2. The nicotine products are delivered by use of mail or a  
1065 delivery service.

1066 (c) "Delivery service" means any person engaged in the  
1067 commercial delivery of letters, packages, or other containers.

1068 (d) "Legal minimum purchase age" means the minimum age at  
1069 which an individual may legally purchase nicotine products in  
1070 the state.

1071 (e) "Retailer" means any person who is required to obtain a  
1072 retail nicotine products dealer permit or a retail tobacco  
1073 products dealer permit, as defined in s. 569.002.

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1074 (f) "Shipping container" means a container in which  
1075 nicotine products are shipped in connection with a delivery  
1076 sale.

1077 (g) "Shipping document" means a bill of lading, airbill,  
1078 United States Postal Service form, or any other document used to  
1079 verify the undertaking by a delivery service to deliver letters,  
1080 packages, or other containers.

1081 (2) (a) A sale of nicotine products constituting a delivery  
1082 sale under paragraph (1) (c) is a delivery sale regardless of  
1083 whether the person accepting the order for the delivery sale is  
1084 located inside or outside the state.

1085 (b) A retailer must obtain a retail nicotine products  
1086 dealer permit or a retail tobacco products dealer permit, as  
1087 defined in s. 569.002, from the division under the requirements  
1088 of this chapter before accepting an order for a delivery sale.

1089 (c) A person may not make a delivery sale of nicotine  
1090 products to any individual who is not 21 years of age or older.

1091 (d) Each person accepting an order for a delivery sale must  
1092 comply with each of the following:

1093 1. The age verification requirements set forth in  
1094 subsection (3).

1095 2. The disclosure requirements set forth in subsection (4).

1096 3. The shipping requirements set forth in subsection (5).

1097 (3) A person may not mail, ship, or otherwise deliver  
1098 nicotine products in connection with an order for a delivery  
1099 sale unless, before the first delivery to the consumer, the  
1100 person accepting the order for the delivery sale:

1101 (a) Obtains from the person submitting the order a  
1102 certification that includes:

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1103       1. Reliable confirmation that the person is 21 years of age  
1104 or older; and

1105       2. A statement signed by the person in writing and under  
1106 penalty of perjury which:

1107           a. Certifies the address and date of birth of the person;  
1108 and

1109           b. Confirms that the person wants to receive delivery sales  
1110 from a nicotine products company and understands that, under the  
1111 laws of the state, the following actions are illegal:

1112               (I) Signing another person's name to the certification;  
1113               (II) Selling nicotine products to individuals who are not  
1114 21 years of age or older; and

1115               (III) Purchasing nicotine products, if the person making  
1116 the purchase is not 21 years of age or older.

1117           (b) Makes a good faith effort to verify the information  
1118 contained in the certification provided by the individual under  
1119 paragraph (a) against a commercially available database that may  
1120 be reasonably relied upon for accurate age information or  
1121 obtains a photocopy or other image of a valid government-issued  
1122 identification card stating the date of birth or age of the  
1123 individual.

1124           (c) Provides to the individual, via electronic mail or  
1125 other means, a notice meeting the requirements of subsection  
1126 (4).

1127           (d) If an order for nicotine products is made pursuant to  
1128 an advertisement on the Internet, receives payment for the  
1129 delivery sale from the consumer by a credit or debit card issued  
1130 in the name of the consumer, or by personal or company check of  
1131 the consumer.

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1132 (e) The person accepting the order for delivery sale shall  
1133 submit, to each credit card acquiring company with which the  
1134 person has credit card sales, identification information in an  
1135 appropriate form and format so that the words "nicotine product"  
1136 may be printed in the purchaser's credit card statement when a  
1137 purchase of a nicotine product is made by credit card payment.

1138 (f) Makes a telephone call after 5 p.m. to the purchaser  
1139 confirming the order before shipping the nicotine products. The  
1140 telephone call may be a person-to-person call or a recorded  
1141 message. The person accepting the order for delivery sale is not  
1142 required to speak directly with a person and may leave a message  
1143 on an answering machine or through voice mail.

1144  
1145 In addition to the requirements of this subsection, a person  
1146 accepting an order for a delivery sale may request that a  
1147 consumer provide an electronic mail address.

1148 (4) The notice described in paragraph (3)(c) must include  
1149 prominent and clearly legible statements that sales of nicotine  
1150 products are:

1151 (a) Illegal if made to individuals who are not 21 years of  
1152 age or older.

1153 (b) Restricted to those individuals who provide verifiable  
1154 proof of age in accordance with subsection (3).

1155 (5) Each person who mails, ships, or otherwise delivers  
1156 nicotine products in connection with an order for a delivery  
1157 sale must:

1158 (a) Include as part of the shipping documents, in a clear  
1159 and conspicuous manner, the following statement: "Nicotine  
1160 Products: Florida law prohibits shipping to individuals under 21



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1161 years of age.”

1162 (b) Use a method of mailing, shipping, or delivery which  
1163 obligates the delivery service to require:

1164 1. The individual submitting the order for the delivery  
1165 sale or another person 21 years of age or older who resides at  
1166 the individual's address to sign his or her name to accept  
1167 delivery of the shipping container. Proof of the legal minimum  
1168 purchase age of the individual accepting delivery is required  
1169 only if the individual appears to be under 30 years of age.

1170 2. Proof that the individual is either the addressee or the  
1171 individual who is 21 years of age or older designated by the  
1172 addressee, in the form of a valid, government-issued  
1173 identification card bearing a photograph of the individual who  
1174 signs to accept delivery of the shipping container.

1175  
1176 If the person accepting a purchase order for a delivery sale  
1177 delivers the nicotine products without using a delivery service,  
1178 the person must comply with all of the requirements of this  
1179 section which apply to a delivery service. Any failure to comply  
1180 with a requirement of this section constitutes a violation  
1181 thereof.

1182 (6) This section does not apply to delivery sales of  
1183 nicotine products to a retail nicotine products dealer or a  
1184 retail tobacco products dealer, as defined in s. 569.002.

1185 (7) An individual 21 years of age or older who knowingly  
1186 violates any provision of this section commits a misdemeanor of  
1187 the second degree, punishable as provided in s. 775.082 or s.  
1188 775.083.

1189 (8) The Attorney General, the Attorney General's designee,

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1190 or a state attorney may bring an action in the appropriate court  
1191 in the state to prevent or restrain violations of this section  
1192 by any person.

1193 Section 33. Section 877.112, Florida Statutes, is repealed.

1194 Section 34. This act shall take effect October 1, 2021.