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1
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 creating s. 569.0025, F.S.; preempting the
19 establishment of the minimum age for purchasing and
20 possessing, and the regulation for the marketing,
21 sale, or delivery of, tobacco products to the state;
22 amending ss. 569.003, 569.004, and 569.006, F.S.;
23 conforming provisions to changes made by the act;
24 amending s. 569.007, F.S.; revising age limitations
25 relating to the sale and delivery of tobacco products;
26 requiring proof of age for certain purchases of
27 tobacco products; revising applicability; amending s.
28 569.0075, F.S.; revising age limitations relating to
29 gifting sample tobacco products; amending s. 569.008,

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30 F.S.; revising legislative intent; revising
31 qualification requirements for responsible retail
32 tobacco products dealers; conforming provisions to
33 changes made by the act; amending s. 569.009, F.S.;
34 conforming a provision to changes made by the act;
35 amending s. 569.101, F.S.; revising age limitations
36 relating to selling, delivering, bartering,
37 furnishing, or giving tobacco products to certain
38 persons; amending s. 569.11, F.S.; revising age
39 limitations relating to possessing and obtaining
40 tobacco products; amending s. 569.12, F.S.; expanding
41 the authority of tobacco product enforcement officers
42 to include nicotine products; amending s. 569.14,
43 F.S.; revising requirements for signage relating to
44 tobacco products, nicotine products, and nicotine
45 dispensing devices; conforming provisions to changes
46 made by the act; amending s. 569.19, F.S.; conforming
47 provisions to changes made by the act; creating s.
48 569.31, F.S.; defining terms; creating s. 569.315,
49 F.S.; preempting the establishment of the minimum age
50 for purchasing and possessing, and the regulation for
51 the marketing, sale, or delivery of, nicotine products
52 to the state; creating s. 569.32, F.S.; requiring
53 retail nicotine product dealers to acquire a permit;
54 providing requirements and authorizations for such
55 permit; creating s. 569.33, F.S.; specifying that an
56 applicant for a retail nicotine products dealer permit
57 consents to certain inspections and searches upon
58 accepting such permit; creating s. 569.34, F.S.;

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59 prohibiting certain persons, firms, associations, or
60 corporations from operating without a permit;
61 providing civil penalties; creating s. 569.35, F.S.;
62 providing administrative penalties for retail nicotine
63 product dealers under certain circumstances; requiring
64 the Division of Alcoholic Beverages and Tobacco to
65 deposit funds collected from administrative fines into
66 the General Revenue Fund; creating s. 569.37, F.S.;
67 providing restrictions on the sale or delivery of
68 nicotine products; creating s. 569.38, F.S.;
69 prohibiting certain persons from gifting sample
70 nicotine products to persons under a specified age;
71 creating s. 569.381, F.S.; providing legislative
72 intent; providing requirements for a dealer to qualify
73 as a responsible retail nicotine products dealer;
74 authorizing the division to mitigate certain
75 penalties; requiring the division to develop and make
76 available a nicotine products training program;
77 requiring dealers to exercise diligence in the
78 management and supervision of their premises and the
79 supervision and training of certain persons; creating
80 s. 569.39, F.S.; requiring the division to adopt
81 rules; creating ss. 569.41 and 569.42, F.S.; providing
82 civil and criminal penalties relating to selling,
83 delivering, bartering, furnishing, or giving nicotine
84 products to certain persons and possessing and
85 acquiring nicotine products, respectively; creating s.
86 569.43, F.S.; providing signage requirements relating
87 to the sale of nicotine products or nicotine

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88 dispensing devices; providing criminal penalties;
89 creating s. 569.44, F.S.; requiring the division to
90 provide an annual report containing specified
91 information to the Governor and the Legislature;
92 creating s. 569.45, F.S.; defining terms; providing
93 requirements for mail order, Internet, and remote
94 sales of nicotine products; providing applicability;
95 providing criminal penalties; repealing s. 877.112,
96 F.S., relating to nicotine products and nicotine
97 dispensing devices; providing an effective date.

98

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

100

101 Section 1. Paragraph (a) of subsection (1), paragraphs (a)
102 and (c) of subsection (2), paragraph (a) of subsection (3),
103 paragraph (a) of subsection (4), paragraphs (a) and (b) of
104 subsection (5), and paragraphs (a), (b), (e), and (g) of
105 subsection (8) of section 210.095, Florida Statutes, are amended
106 to read:

107 210.095 Mail order, Internet, and remote sales of tobacco
108 products; age verification.—

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

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

112 (2)

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

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

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

124 (a) Obtains from the individual submitting the order a
125 certification that includes:

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

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

130 a. Certifies the address and date of birth of the
131 individual; and

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

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

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

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

140
141 In addition to the requirements of this subsection, a person
142 accepting an order for a delivery sale may request that a
143 consumer provide an electronic mail address.

144 (4) The notice described in paragraph (3)(c) must include
145 prominent and clearly legible statements that sales of tobacco

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146 products are:

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

149

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

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

155 (a) Include as part of the shipping documents, in a clear
156 and conspicuous manner, the following statement: "Tobacco
157 Products: Florida law prohibits shipping to individuals under 21
158 ~~18~~ years of age and requires the payment of all applicable
159 taxes."

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

162 1. The individual submitting the order for the delivery
163 sale or another individual who is 21 years of age or older ~~adult~~
164 who resides at the individual's address to sign his or her name
165 to accept delivery of the shipping container. Proof of the legal
166 minimum purchase age of the individual accepting delivery is
167 required only if the individual appears to be under 30 ~~27~~ years
168 of age.

169 2. Proof that the individual is either the addressee or the
170 individual who is 21 years of age or older ~~adult~~ designated by
171 the addressee, in the form of a valid, government-issued
172 identification card bearing a photograph of the individual who
173 signs to accept delivery of the shipping container.

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

181 (8) (a) Except as otherwise provided in this section, a
182 violation of this section by a person other than an individual
183 who is not 21 years of age or older ~~an adult~~ is a misdemeanor of
184 the first degree, punishable as provided in s. 775.082 or s.
185 775.083, and:

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

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

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

200 (e) A person who, in connection with a delivery sale,
201 delivers tobacco products on behalf of a delivery service to an
202 individual who is not 21 years of age or older ~~an adult~~ commits
203 a misdemeanor of the second ~~third~~ degree, punishable as provided

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204 in s. 775.082 or s. 775.083.

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

209 Section 2. Paragraph (b) of subsection (1) of section
210 210.15, Florida Statutes, is amended to read:

211 210.15 Permits.—

212 (1)

213 (b) Permits shall be issued only to persons of good moral
214 character who are not less than 21 ~~18~~ years of age. Permits to
215 corporations shall be issued only to corporations whose officers
216 are of good moral character and not less than 21 ~~18~~ years of
217 age. There shall be no exemptions from the permit fees herein
218 provided to any persons, association of persons, or corporation,
219 any law to the contrary notwithstanding.

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

222 386.212 Smoking and vaping prohibited near school property;
223 penalty.—

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

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

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

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

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

239 Section 6. Section 569.002, Florida Statutes, is amended to
240 read:

241 569.002 Definitions.—As used in this part ~~chapter~~, the
242 term:

243 (1) "Dealer" is synonymous with the term "retail tobacco
244 products dealer."

245 (2) "Division" means the Division of Alcoholic Beverages
246 and Tobacco of the Department of Business and Professional
247 Regulation.

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

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

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

254 (6)~~(4)~~ "Retail tobacco products dealer" means the holder of
255 a retail tobacco products dealer permit.

256 (7)~~(5)~~ "Retail tobacco products dealer permit" means a
257 permit issued by the division pursuant to s. 569.003.

258 (8)~~(6)~~ "Tobacco products" includes loose tobacco leaves,
259 and products made from tobacco leaves, in whole or in part, and
260 cigarette wrappers, which can be used for smoking, sniffing, or
261 chewing.

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262 ~~(9)-(7)~~ "Any person under the age of 21 ~~18~~" does not include
263 any person under the age of 21 ~~18~~ who:

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

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

268 ~~(c) Is otherwise emancipated by a court of competent~~
269 ~~jurisdiction and released from parental care and responsibility;~~
270 or

271 ~~(b)-(d)~~ Is acting in his or her scope of lawful employment
272 with an entity licensed under the provisions of chapter 210 or
273 this part ~~chapter~~.

274 Section 7. Section 569.0025, Florida Statutes, is created
275 to read:

276 569.0025 Preemption.—The establishment of the minimum age
277 for purchasing or possessing, and the regulation for the
278 marketing, sale, or delivery of, tobacco products is preempted
279 to the state.

280 Section 8. Paragraph (c) of subsection (1) and paragraph
281 (a) of subsection (2) of section 569.003, Florida Statutes, are
282 amended to read:

283 569.003 Retail tobacco products dealer permits;
284 application; qualifications; fees; renewal; duplicates.—

285 (1)

286 (c) Permits shall be issued annually, upon payment of the
287 annual permit fee prescribed by the division. The division shall
288 fix the fee in an amount sufficient to meet the costs incurred
289 by it in carrying out its permitting, enforcement, and
290 administrative responsibilities under this part ~~chapter~~, but the

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291 fee may not exceed \$50. The proceeds of the fee shall be
292 deposited into the Alcoholic Beverage and Tobacco Trust Fund.

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

296 Section 9. Section 569.004, Florida Statutes, is amended to
297 read:

298 569.004 Consent to inspection and search without warrant.—
299 An applicant for a permit, by accepting the permit when issued,
300 agrees that the place or premises covered by the permit is
301 subject to inspection and search without a search warrant by the
302 division or its authorized assistants, and by sheriffs, deputy
303 sheriffs, or police officers, to determine compliance with this
304 chapter, including part II of this chapter if the applicant
305 deals, at retail, in nicotine products within the state or
306 allows a nicotine products vending machine to be located on its
307 premises within the state.

308 Section 10. Section 569.006, Florida Statutes, is amended
309 to read:

310 569.006 Retail tobacco products dealers; administrative
311 penalties.—The division may suspend or revoke the permit of the
312 dealer upon sufficient cause appearing of the violation of any
313 of the provisions of this chapter, including part II of this
314 chapter if the dealer deals, at retail, in nicotine products
315 within the state or allows a nicotine products vending machine
316 to be located on its premises within the state, by a dealer or
317 by a dealer's agent or employee. The division may also assess
318 and accept administrative fines of up to \$1,000 against a dealer
319 for each violation. The division shall deposit all fines

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

325 Section 11. Subsections (1), (2), and (4) of section
326 569.007, Florida Statutes, are amended to read:

327 569.007 Sale or delivery of tobacco products;
328 restrictions.—

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

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

334 (b) Sales from a vending machine are prohibited under the
335 provisions of paragraph (1)(a) and are only permissible from a
336 machine that is equipped with an operational lockout device
337 which is under the control of the dealer or the dealer's agent
338 or employee who directly regulates the sale of items through the
339 machine by triggering the lockout device to allow the dispensing
340 of one tobacco product. The lockout device must include a
341 mechanism to prevent the machine from functioning if the power
342 source for the lockout device fails or if the lockout device is
343 disabled, and a mechanism to ensure that only one tobacco
344 product is dispensed at a time.

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

348 (4) A dealer or a dealer's agent or employee must ~~may~~

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349 require proof of age of a purchaser of a tobacco product before
350 selling the product to that person, unless the purchaser appears
351 to be 30 years of age or older.

352 Section 12. Section 569.0075, Florida Statutes, is amended
353 to read:

354 569.0075 Gift of sample tobacco products prohibited.—The
355 gift of sample tobacco products to any person under the age of
356 21 ~~18~~ by an entity licensed or permitted under the provisions of
357 chapter 210 or this part ~~chapter~~, or by an employee of such
358 entity, is prohibited and is punishable as provided in s.
359 569.101.

360 Section 13. Subsection (1), paragraphs (b) and (c) of
361 subsection (2), and subsection (3) of section 569.008, Florida
362 Statutes, are amended to read:

363 569.008 Responsible retail tobacco products dealers;
364 qualifications; mitigation of disciplinary penalties; diligent
365 management and supervision; presumption.—

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

370 (2) To qualify as a responsible retail tobacco products
371 dealer, the dealer must establish and implement procedures
372 designed to ensure that the dealer's employees comply with the
373 provisions of this part ~~chapter~~. The dealer must provide a
374 training program for the dealer's employees which addresses the
375 use and sale of tobacco products and which includes at least the
376 following topics:

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

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378 ~~18~~ years of age.

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

382 (3) In determining penalties under s. 569.006, the division
383 may mitigate penalties imposed against a dealer because of an
384 employee's illegal sale of a tobacco product to a person under
385 21 ~~18~~ years of age if the following conditions are met:

386 (a) The dealer is qualified as a responsible dealer under
387 this section.

388 (b) The dealer provided the training program required under
389 subsection (2) to that employee before the illegal sale
390 occurred.

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

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

396 Section 14. Section 569.009, Florida Statutes, is amended
397 to read:

398 569.009 Rulemaking authority.—The division shall adopt any
399 rules necessary to administer and enforce the provisions of this
400 part ~~chapter~~.

401 Section 15. Section 569.101, Florida Statutes, is amended
402 to read:

403 569.101 Selling, delivering, bartering, furnishing, or
404 giving tobacco products to persons under 21 ~~18~~ years of age;
405 criminal penalties; defense.—

406 (1) It is unlawful to sell, deliver, barter, furnish, or

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407 give, directly or indirectly, to any person who is under 21 ~~18~~
408 years of age, any tobacco product.

409 (2) Any person who violates subsection (1) commits a
410 misdemeanor of the second degree, punishable as provided in s.
411 775.082 or s. 775.083. However, any person who violates
412 subsection (1) for a second or subsequent time within 1 year of
413 the first violation, commits a misdemeanor of the first degree,
414 punishable as provided in s. 775.082 or s. 775.083.

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

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

420 (b) The appearance of the buyer or recipient was such that
421 a prudent person would believe the buyer or recipient to be 21
422 ~~18~~ years of age or older; and

423 (c) Such person carefully checked a driver license or an
424 identification card issued by this state or another state of the
425 United States, a passport, or a United States armed services
426 identification card presented by the buyer or recipient and
427 acted in good faith and in reliance upon the representation and
428 appearance of the buyer or recipient in the belief that the
429 buyer or recipient was 21 ~~18~~ years of age or older.

430 Section 16. Section 569.11, Florida Statutes, is amended to
431 read:

432 569.11 Possession, misrepresenting age or military service
433 to purchase, and purchase of tobacco products by persons under
434 21 ~~18~~ years of age prohibited; penalties; jurisdiction;
435 disposition of fines.-

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

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

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

446
447 Any second or subsequent violation not within the 12-week period
448 after the first violation is punishable as provided for a first
449 violation.

450 (2) It is unlawful for any person under 21 ~~18~~ years of age
451 to misrepresent his or her age or military service for the
452 purpose of inducing a dealer or an agent or employee of the
453 dealer to sell, give, barter, furnish, or deliver any tobacco
454 product, or to purchase, or attempt to purchase, any tobacco
455 product from a person or a vending machine. Any person under 21
456 ~~18~~ years of age who violates this subsection commits a
457 noncriminal violation as provided in s. 775.08(3), punishable
458 by:

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

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

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

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

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

(5) (a) If a person under 21 ~~18~~ years of age is found by the court to have committed a noncriminal violation under this section and that person has failed to complete community service, pay the fine as required by paragraph (1) (a) or paragraph (2) (a), or attend a school-approved anti-tobacco program, if locally available, the court may direct the

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494 Department of Highway Safety and Motor Vehicles to withhold
495 issuance of or suspend the driver license or driving privilege
496 of that person for a period of 30 consecutive days.

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

504 (6) Eighty percent of all civil penalties received by a
505 county court pursuant to this section shall be remitted by the
506 clerk of the court to the Department of Revenue for transfer to
507 the Department of Education to provide for teacher training and
508 for research and evaluation to reduce and prevent the use of
509 tobacco products by children. The remaining 20 percent of civil
510 penalties received by a county court pursuant to this section
511 shall remain with the clerk of the county court to cover
512 administrative costs.

513 Section 17. Section 569.12, Florida Statutes, is amended to
514 read:

515 569.12 Jurisdiction; tobacco product and nicotine product
516 enforcement officers or agents; enforcement.—

517 (1) In addition to the Division of Alcoholic Beverages and
518 Tobacco of the Department of Business and Professional
519 Regulation, any law enforcement officer certified under s.
520 943.10(1), (6), or (8) shall enforce the provisions of this
521 chapter.

522 (2) (a) A county or municipality may designate certain of

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523 its employees or agents as tobacco product and nicotine product
524 enforcement officers. The training and qualifications of the
525 employees or agents for such designation shall be determined by
526 the county or the municipality. Nothing in this section shall be
527 construed to permit the carrying of firearms or other weapons by
528 a tobacco product and nicotine product enforcement agent, nor
529 does designation as a tobacco product and nicotine product
530 enforcement officer provide the employee or agent with the power
531 of arrest or subject the employee or agent to the provisions of
532 ss. 943.085-943.255. Nothing in this section amends, alters, or
533 contravenes the provisions of any state-administered retirement
534 system or any state-supported retirement system established by
535 general law.

536 (b) A tobacco product and nicotine product enforcement
537 officer is authorized to issue a citation to a person under the
538 age of 21 ~~18~~ when, based upon personal investigation, the
539 officer has reasonable cause to believe that the person has
540 committed a civil infraction in violation of s. 386.212, ~~or~~ s.
541 569.11, or s. 569.42.

542 (3) A correctional probation officer as defined in s.
543 943.10(3) is authorized to issue a citation to a person under
544 the age of 21 ~~18~~ when, based upon personal investigation, the
545 officer has reasonable cause to believe that the person has
546 committed a civil infraction in violation of s. 569.11 or s.
547 569.42.

548 (4) A citation issued to any person violating the
549 provisions of s. 569.11 or s. 569.42 shall be in a form
550 prescribed by the Division of Alcoholic Beverages and Tobacco of
551 the Department of Business and Professional Regulation and shall

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552 contain:

553 (a) The date and time of issuance.

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

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

557 (d) The facts constituting reasonable cause.

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

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

560 (g) The procedure for the person to follow in order to
561 contest the citation, perform the required community service,
562 attend the required anti-tobacco or anti-tobacco and anti-
563 nicotine program, or to pay the civil penalty.

564 Section 18. Section 569.14, Florida Statutes, is amended to
565 read:

566 569.14 Posting of a sign stating that the sale of tobacco
567 products or nicotine products to persons under 21 ~~18~~ years of
568 age is unlawful; enforcement; penalty.—

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

572
573 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE
574 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS
575 REQUIRED FOR PURCHASE.

576
577 (2) A dealer that sells tobacco products and nicotine
578 products or nicotine dispensing devices, ~~as defined in s.~~
579 ~~877.112,~~ may use a sign that substantially states the following:

580

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581 THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR
582 NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE
583 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS
584 REQUIRED FOR PURCHASE.

585
586 A dealer that uses a sign as described in this subsection meets
587 the signage requirements of subsection (1) and s. 569.43(1) ~~s.~~
588 ~~877.112~~.

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

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

599
600 IF YOU WERE NOT BORN BEFORE THIS DATE
601 (insert date and applicable year)
602 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS,
603 OR NICOTINE DISPENSING DEVICES.

604
605 Upon approval by the division, in lieu of a calendar a dealer
606 may use card readers, scanners, or other electronic or automated
607 systems that can verify whether a person is of legal age to
608 purchase tobacco products. Failure to comply with the provisions
609 contained in this subsection shall result in imposition of

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610 administrative penalties as provided in s. 569.006.

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

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

616 Section 19. Section 569.19, Florida Statutes, is amended to
617 read:

618 569.19 Annual report.—The division shall report annually
619 with written findings to the Legislature and the Governor by
620 December 31, on the progress of implementing the enforcement
621 provisions of this part ~~chapter~~. This must include, but is not
622 limited to:

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

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

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

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

632 Section 20. Section 569.31, Florida Statutes, is created to
633 read:

634 569.31 Definitions.—As used in this part, the term:

635 (1) "Dealer" is synonymous with the term "retail nicotine
636 products dealer."

637 (2) "Division" means the Division of Alcoholic Beverages
638 and Tobacco of the Department of Business and Professional

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639 Regulation.

640 (3) "Nicotine dispensing device" means any product that
641 employs an electronic, chemical, or mechanical means to produce
642 vapor or aerosol from a nicotine product, including, but not
643 limited to, an electronic cigarette, electronic cigar,
644 electronic cigarillo, electronic pipe, or other similar device
645 or product, any replacement cartridge for such device, and any
646 other container of nicotine in a solution or other form intended
647 to be used with or within an electronic cigarette, electronic
648 cigar, electronic cigarillo, electronic pipe, or other similar
649 device or product.

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

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

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

659 (c) Product that contains incidental nicotine.

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

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

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

666 (8) "Self-service merchandising" means the open display of
667 nicotine products, whether packaged or otherwise, for direct

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668 retail customer access and handling before purchase without the
669 intervention or assistance of the dealer or the dealer's owner,
670 employee, or agent. An open display of such products and devices
671 includes the use of an open display unit.

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

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

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

677 Section 21. Section 569.315, Florida Statutes, is created
678 to read:

679 569.315 Preemption.—The establishment of the minimum age
680 for purchasing or possessing, and the regulation for the
681 marketing, sale, or delivery of, nicotine products is preempted
682 to the state.

683 Section 22. Section 569.32, Florida Statutes, is created to
684 read:

685 569.32 Retail nicotine products dealer permits;
686 application; qualifications; renewal; duplicates.—

687 (1)(a) Each person, firm, association, or corporation that
688 seeks to deal, at retail, in nicotine products within the state,
689 or to allow a nicotine products vending machine to be located on
690 its premises in the state, must obtain a retail nicotine
691 products dealer permit for each place of business or premises at
692 which nicotine products are sold. Each dealer owning, leasing,
693 furnishing, or operating vending machines through which nicotine
694 products are sold must obtain a permit for each machine and
695 shall post the permit in a conspicuous place on or near the
696 machine; however, if the dealer has more than one vending

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697 machine at a single location or if nicotine products are sold
698 both over the counter and through a vending machine at a single
699 location, the dealer need obtain only one permit for that
700 location.

701 (b) Application for a permit must be made on a form
702 furnished by the division and must set forth the name under
703 which the applicant transacts or intends to transact business,
704 the address of the location of the applicant's place of business
705 within the state, and any other information the division
706 requires. If the applicant has or intends to have more than one
707 place of business dealing in nicotine products within the state,
708 a separate application must be made for each place of business.
709 If the applicant is a firm or an association, the application
710 must set forth the names and addresses of the persons
711 constituting the firm or association; if the applicant is a
712 corporation, the application must set forth the names and
713 addresses of the principal officers of the corporation. The
714 application must also set forth any other information prescribed
715 by the division for the purpose of identifying the applicant
716 firm, association, or corporation. The application must be
717 signed and verified by oath or affirmation by the owner, if a
718 sole proprietor, or, if the owner is a firm, association, or
719 partnership, by the members or partners thereof, or, if the
720 owner is a corporation, by an executive officer of the
721 corporation or by a person authorized by the corporation to sign
722 the application, together with the written evidence of this
723 authority.

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

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726 are 21 years of age or older.

727 (b) The division may refuse to issue a permit to any
728 person, firm, association, or corporation the permit of which
729 has been revoked, to any corporation an officer of which has had
730 his or her permit revoked, or to any person who is or has been
731 an officer of a corporation the permit of which has been
732 revoked. Any permit issued to a firm, association, or
733 corporation prohibited from obtaining a permit under this
734 chapter shall be revoked by the division.

735 (3) Upon approval of an application for a permit, the
736 division shall issue to the applicant a permit for the place of
737 business or premises specified in the application. A permit is
738 not assignable and is valid only for the person in whose name
739 the permit is issued and for the place designated in the permit.
740 The permit shall be conspicuously displayed at all times at the
741 place for which issued.

742 Section 23. Section 569.33 Florida Statutes, is created to
743 read:

744 569.33 Consent to inspection and search without warrant.—An
745 applicant for a retail nicotine products dealer permit, by
746 accepting the permit when issued, agrees that the place or
747 premises covered by the permit is subject to inspection and
748 search without a search warrant by the division or its
749 authorized assistants, and by sheriffs, deputy sheriffs, or
750 police officers, to determine compliance with this part.

751 Section 24. Section 569.34, Florida Statutes, is created to
752 read:

753 569.34 Operating without a retail nicotine products dealer
754 permit; penalty.—

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

762 (2) A retail tobacco products dealer, as defined in s.
763 569.002(4), is not required to have a separate or additional
764 retail nicotine products dealer permit to deal, at retail, in
765 nicotine products within the state, or allow a nicotine products
766 vending machine to be located on its premises in the state. Any
767 retail tobacco products dealer that deals, at retail, in
768 nicotine products or allows a nicotine products vending machine
769 to be located on its premises in the state, is subject to, and
770 must be in compliance with, this part.

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

776 (a) A person cited for an infraction under this section
777 may:

778 1. Post a \$500 bond; or
779 2. Sign and accept the citation indicating a promise to
780 appear.

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

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

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

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

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

796 (e) If a person is found by the court to have committed the
797 infraction, that person may appeal that finding to the circuit
798 court.

799 Section 25. Section 569.35, Florida Statutes, is created to
800 read:

801 569.35 Retail nicotine product dealers; administrative
802 penalties.—The division may suspend or revoke the permit of a
803 dealer, including the retail tobacco products dealer permit of a
804 retail tobacco products dealer as defined in s. 569.002(4), upon
805 sufficient cause appearing of the violation of any of the
806 provisions of this part, by a dealer, or by a dealer's agent or
807 employee. The division may also assess and accept an
808 administrative fine of up to \$1,000 against a dealer for each
809 violation. The division shall deposit all fines collected into
810 the General Revenue Fund as collected. An order imposing an
811 administrative fine becomes effective 15 days after the date of
812 the order. The division may suspend the imposition of a penalty

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

815 Section 26. Section 569.37, Florida Statutes, is created to
816 read:

817 569.37 Sale or delivery of nicotine products;
818 restrictions.-

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

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

824 (b) Sales from a vending machine are prohibited under
825 paragraph (a) and are only permissible from a machine that is
826 equipped with an operational lockout device that is under the
827 control of the dealer or the dealer's agent or employee who
828 directly regulates the sale of items through the machine by
829 triggering the lockout device to allow the dispensing of one
830 nicotine product. The lockout device must include a mechanism to
831 prevent the machine from functioning if the power source for the
832 lockout device fails or if the lockout device is disabled, and a
833 mechanism to ensure that only one nicotine product is dispensed
834 at a time.

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

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

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

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

844 (4) A dealer or a dealer's agent or employee must require
845 proof of age of a purchaser of a nicotine product before selling
846 the product to that person, unless the purchaser appears to be
847 30 years of age or older.

848 Section 27. Section 569.38, Florida Statutes, is created to
849 read:

850 569.38 Gift of sample nicotine products and nicotine
851 dispensing devices.—The gift of sample nicotine products to any
852 person under the age of 21 by an entity permitted under this
853 part, or by an employee of such entity, is prohibited and is
854 punishable as provided in s. 569.41.

855 Section 28. Section 569.381, Florida Statutes, is created
856 to read:

857 569.381 Responsible retail nicotine products dealers;
858 qualifications; mitigation of disciplinary penalties; diligent
859 management and supervision; presumption.—

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

864 (2) To qualify as a responsible retail nicotine products
865 dealer, the dealer must establish and implement procedures
866 designed to ensure that the dealer's employees comply with this
867 part. The dealer must provide a training program for the
868 dealer's employees which addresses the use and sale of nicotine
869 products and which includes at least the following topics:

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

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871 (b) Methods of recognizing and handling customers under 21
872 years of age.

873 (c) Procedures for proper examination of identification
874 cards in order to verify that customers are not under 21 years
875 of age.

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

878 (3) In determining penalties under s. 569.35, the division
879 may mitigate penalties imposed against a dealer because of an
880 employee's illegal sale of a nicotine product to a person under
881 21 years of age if the following conditions are met:

882 (a) The dealer is qualified as a responsible dealer under
883 this section.

884 (b) The dealer provided the training program required under
885 subsection (2) to that employee before the illegal sale
886 occurred.

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

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

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

896 (5) Dealers shall exercise diligence in the management and
897 supervision of their premises and in the supervision and
898 training of their employees, agents, or servants. In proceedings
899 to impose penalties under s. 569.35, proof that employees,

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900 agents, or servants of the dealer, while in the scope of their
901 employment, committed at least three violations of s. 569.41
902 during a 180-day period shall be prima facie evidence of a lack
903 of due diligence by the dealer in the management and supervision
904 of his or her premises and in the supervision and training of
905 employees, agents, officers, or servants.

906 (6) The division may consider qualification as a
907 responsible retail nicotine products dealer under this section
908 as evidence that the dealer properly exercised the diligence
909 required under this section.

910 Section 29. Section 569.39, Florida Statutes, is created to
911 read:

912 569.39 Rulemaking authority.—The division shall adopt rules
913 to administer and enforce this part.

914 Section 30. Section 569.41, Florida Statutes, is created to
915 read:

916 569.41 Selling, delivering, bartering, furnishing, or
917 giving nicotine products to persons under 21 years of age;
918 criminal penalties; defense.—

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

922 (2) Any person who violates subsection (1) commits a
923 misdemeanor of the second degree, punishable as provided in s.
924 775.082 or s. 775.083. However, any person who violates
925 subsection (1) for a second or subsequent time within 1 year
926 after the first violation commits a misdemeanor of the first
927 degree, punishable as provided in s. 775.082 or s. 775.083.

928 (3) A person charged with a violation of subsection (1) has

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929 a complete defense if, at the time the nicotine product was
930 sold, delivered, bartered, furnished, or given:

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

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

936 (c) Such person carefully checked a driver license or an
937 identification card issued by the state or another state of the
938 United States, a passport, or a United States armed services
939 identification card presented by the buyer or recipient and
940 acted in good faith and in reliance upon the representation and
941 appearance of the buyer or recipient in the belief that the
942 buyer or recipient was 21 years of age or older.

943 Section 31. Section 569.42, Florida Statutes, is created to
944 read:

945 569.42 Possession, misrepresenting age or military service
946 to purchase, and purchase of nicotine products by persons under
947 21 years of age prohibited; penalties; jurisdiction; disposition
948 of fines.—

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

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

957 (b) For a second or subsequent violation within 12 weeks

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958 after the first violation, a \$25 fine.

959
960 Any second or subsequent violation not within the 12-week period
961 after the first violation is punishable as provided for a first
962 violation.

963 (2) It is unlawful for any person under 21 years of age to
964 misrepresent his or her age or military service for the purpose
965 of inducing a dealer or an agent or employee of the dealer to
966 sell, give, barter, furnish, or deliver any nicotine product, or
967 to purchase, or attempt to purchase, any nicotine product from a
968 person or a vending machine. Any person under 21 years of age
969 who violates this subsection commits a noncriminal violation as
970 defined in s. 775.08(3), punishable by:

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

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

977
978 Any second or subsequent violation not within the 12-week period
979 after the first violation is punishable as provided for a first
980 violation.

981 (3) Any person under 21 years of age cited for committing a
982 noncriminal violation under this section must sign and accept a
983 civil citation indicating a promise to appear before the county
984 court or comply with the requirement for paying the fine and
985 must attend a school-approved anti-tobacco and anti-nicotine
986 program, if locally available. If a fine is assessed for a

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987 violation of this section, the fine must be paid within 30 days
988 after the date of the citation or, if a court appearance is
989 mandatory, within 30 days after the date of the hearing.

990 (4) A person charged with a noncriminal violation under
991 this section must appear before the county court or comply with
992 the requirement for paying the fine. The court, after a hearing,
993 shall make a determination as to whether the noncriminal
994 violation was committed. If the court finds the violation was
995 committed, it shall impose an appropriate penalty as specified
996 in subsection (1) or subsection (2). A person who participates
997 in community service shall be considered an employee of the
998 state for the purpose of chapter 440, for the duration of such
999 service.

1000 (5) (a) If a person under 21 years of age is found by the
1001 court to have committed a noncriminal violation under this
1002 section and the person has failed to complete community service,
1003 pay the fine as required by paragraph (1) (a) or paragraph
1004 (2) (a), or attend a school-approved anti-tobacco and anti-
1005 nicotine program, if locally available, the court may direct the
1006 Department of Highway Safety and Motor Vehicles to withhold
1007 issuance of or suspend the driver license or driving privilege
1008 of that person for a period of 30 consecutive days.

1009 (b) If a person under 21 years of age is found by the court
1010 to have committed a noncriminal violation under this section and
1011 that person has failed to pay the applicable fine as required by
1012 paragraph (1) (b) or paragraph (2) (b), the court may direct the
1013 Department of Highway Safety and Motor Vehicles to withhold
1014 issuance of or suspend the driver license or driving privilege
1015 of that person for a period of 45 consecutive days.

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1016 (6) Eighty percent of all civil penalties received by a
1017 county court under this section shall be remitted by the clerk
1018 of the court to the Department of Revenue for transfer to the
1019 Department of Education to provide for teacher training and for
1020 research and evaluation to reduce and prevent the use of
1021 nicotine products by children. The remaining 20 percent of civil
1022 penalties received by a county court under this section shall
1023 remain with the clerk of the county court to cover
1024 administrative costs.

1025 Section 32. Section 569.43, Florida Statutes, is created to
1026 read:

1027 569.43 Posting of a sign stating that the sale of nicotine
1028 products or nicotine dispensing devices to persons under 21
1029 years of age is unlawful; enforcement; penalty.-

1030 (1) A dealer that sells nicotine products shall post a
1031 clear and conspicuous sign in each place of business at which
1032 such products are sold which substantially states the following:

1033
1034 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING
1035 DEVICES TO PERSONS UNDER THE AGE OF 21 IS AGAINST
1036 FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

1037
1038 (2) The division shall make available to dealers of
1039 nicotine products signs that meet the requirements of subsection
1040 (1).

1041 (3) Any dealer that sells nicotine products shall provide
1042 at the checkout counter in a location clearly visible to the
1043 dealer or the dealer's agent or employee instructional material
1044 in a calendar format or similar format to assist in determining

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1045 whether a person is of legal age to purchase nicotine products.
1046 This point of sale material must contain substantially the
1047 following language:

1048
1049 IF YOU WERE NOT BORN BEFORE THIS DATE
1050 (insert date and applicable year)
1051 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR NICOTINE
1052 DISPENSING DEVICES.

1053
1054 Upon approval by the division, in lieu of a calendar a dealer
1055 may use card readers, scanners, or other electronic or automated
1056 systems that can verify whether a person is of legal age to
1057 purchase nicotine products. Failure to comply with the
1058 provisions contained in this subsection shall result in
1059 imposition of administrative penalties as provided in s. 569.35.

1060 (4) The division, through its agents and inspectors, shall
1061 enforce this section.

1062 (5) Any person who fails to comply with subsection (1)
1063 commits a misdemeanor of the second degree, punishable as
1064 provided in s. 775.082 or s. 775.083.

1065 Section 33. Section 569.44, Florida Statutes, is created to
1066 read:

1067 569.44 Annual report.—The division shall report annually
1068 with written findings to the Legislature and the Governor by
1069 December 31, on the progress of implementing the enforcement
1070 provisions of this part. This must include, but is not limited
1071 to:

1072 (1) The number and results of compliance visits.

1073 (2) The number of violations for failure of a retailer to

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1074 hold a valid permit.

1075 (3) The number of violations for selling nicotine products
1076 to persons under age 21, and the results of administrative
1077 hearings on the above and related issues.

1078 (4) The number of persons under age 21 cited for violations
1079 of s. 569.42 and sanctions imposed as a result of citation.

1080 Section 34. Section 569.45, Florida Statutes, is created to
1081 read:

1082 569.45 Mail order, Internet, and remote sales of nicotine
1083 products; age verification.-

1084 (1) For purposes of this section, the term:

1085 (a) "Consumer" means a person in the state who comes into
1086 possession of any nicotine product who, at the time of
1087 possession, is not intending to sell or distribute the nicotine
1088 product, or is not a retailer.

1089 (b) "Delivery sale" means any sale of nicotine products to
1090 a consumer in the state for which:

1091 1. The consumer submits the order for the sale by
1092 telephonic or other voice transmission, mail, delivery service,
1093 or the Internet or other online service; or

1094 2. The nicotine products are delivered by use of mail or a
1095 delivery service.

1096 (c) "Delivery service" means any person engaged in the
1097 commercial delivery of letters, packages, or other containers.

1098 (d) "Legal minimum purchase age" means the minimum age at
1099 which an individual may legally purchase nicotine products in
1100 the state.

1101 (e) "Retailer" means any person who is required to obtain a
1102 retail nicotine products dealer permit or a retail tobacco

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1103 products dealer permit, as defined in s. 569.002.

1104 (f) "Shipping container" means a container in which
1105 nicotine products are shipped in connection with a delivery
1106 sale.

1107 (g) "Shipping document" means a bill of lading, airbill,
1108 United States Postal Service form, or any other document used to
1109 verify the undertaking by a delivery service to deliver letters,
1110 packages, or other containers.

1111 (2) (a) A sale of nicotine products constituting a delivery
1112 sale under paragraph (1) (b) is a delivery sale regardless of
1113 whether the person accepting the order for the delivery sale is
1114 located inside or outside the state.

1115 (b) A retailer must obtain a retail nicotine products
1116 dealer permit or a retail tobacco products dealer permit, as
1117 defined in s. 569.002, from the division under the requirements
1118 of this chapter before accepting an order for a delivery sale.

1119 (c) A person may not make a delivery sale of nicotine
1120 products to any individual who is not 21 years of age or older.

1121 (d) Each person accepting an order for a delivery sale must
1122 comply with each of the following:

1123 1. The age verification requirements set forth in
1124 subsection (3).

1125 2. The disclosure requirements set forth in subsection (4).

1126 3. The shipping requirements set forth in subsection (5).

1127 (3) A person may not mail, ship, or otherwise deliver
1128 nicotine products in connection with an order for a delivery
1129 sale unless, before the first delivery to the consumer, the
1130 person accepting the order for the delivery sale:

1131 (a) Obtains from the person submitting the order a

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1132 certification that includes:
1133 1. Reliable confirmation that the person is 21 years of age
1134 or older; and
1135 2. A statement signed by the person in writing and under
1136 penalty of perjury which:
1137 a. Certifies the address and date of birth of the person;
1138 and
1139 b. Confirms that the person wants to receive delivery sales
1140 from a nicotine products company and understands that, under the
1141 laws of the state, the following actions are illegal:
1142 (I) Signing another person's name to the certification;
1143 (II) Selling nicotine products to individuals who are not
1144 21 years of age or older; and
1145 (III) Purchasing nicotine products, if the person making
1146 the purchase is not 21 years of age or older.
1147 (b) Makes a good faith effort to verify the information
1148 contained in the certification provided by the individual under
1149 paragraph (a) against a commercially available database that may
1150 be reasonably relied upon for accurate age information or
1151 obtains a photocopy or other image of a valid government-issued
1152 identification card stating the date of birth or age of the
1153 individual.
1154 (c) Provides to the individual, via electronic mail or
1155 other means, a notice meeting the requirements of subsection
1156 (4).
1157 (d) If an order for nicotine products is made pursuant to
1158 an advertisement on the Internet, receives payment for the
1159 delivery sale from the consumer by a credit or debit card issued
1160 in the name of the consumer, or by personal or company check of

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1161 the consumer.

1162 (e) Submits, to each credit card acquiring company with
1163 which the person has credit card sales, identification
1164 information in an appropriate form and format so that the words
1165 "nicotine product" may be printed in the purchaser's credit card
1166 statement when a purchase of a nicotine product is made by
1167 credit card payment.

1168 (f) Makes a telephone call after 5 p.m. to the purchaser
1169 confirming the order before shipping the nicotine products. The
1170 telephone call may be a person-to-person call or a recorded
1171 message. The person accepting the order for delivery sale is not
1172 required to speak directly with a person and may leave a message
1173 on an answering machine or through voice mail.

1174
1175 In addition to the requirements of this subsection, a person
1176 accepting an order for a delivery sale may request that a
1177 consumer provide an electronic mail address.

1178 (4) The notice described in paragraph (3)(c) must include
1179 prominent and clearly legible statements that sales of nicotine
1180 products are:

1181 (a) Illegal if made to individuals who are not 21 years of
1182 age or older.

1183 (b) Restricted to those individuals who provide verifiable
1184 proof of age in accordance with subsection (3).

1185 (5) Each person who mails, ships, or otherwise delivers
1186 nicotine products in connection with an order for a delivery
1187 sale must:

1188 (a) Include as part of the shipping documents, in a clear
1189 and conspicuous manner, the following statement: "Nicotine

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1190 Products: Florida law prohibits shipping to individuals under 21
1191 years of age.”

1192 (b) Use a method of mailing, shipping, or delivery which
1193 obligates the delivery service to require:

1194 1. The individual submitting the order for the delivery
1195 sale or another person 21 years of age or older who resides at
1196 the individual’s address to sign his or her name to accept
1197 delivery of the shipping container. Proof of the legal minimum
1198 purchase age of the individual accepting delivery is required
1199 only if the individual appears to be under 30 years of age.

1200 2. Proof that the individual is either the addressee or the
1201 individual who is 21 years of age or older designated by the
1202 addressee, in the form of a valid, government-issued
1203 identification card bearing a photograph of the individual who
1204 signs to accept delivery of the shipping container.

1205
1206 If the person accepting a purchase order for a delivery sale
1207 delivers the nicotine products without using a delivery service,
1208 the person must comply with all of the requirements of this
1209 section which apply to a delivery service. Any failure to comply
1210 with a requirement of this section constitutes a violation
1211 thereof.

1212 (6) This section does not apply to delivery sales of
1213 nicotine products to a retail nicotine products dealer or a
1214 retail tobacco products dealer, as defined in s. 569.002.

1215 (7) An individual 21 years of age or older who knowingly
1216 violates any provision of this section commits a misdemeanor of
1217 the second degree, punishable as provided in s. 775.082 or s.
1218 775.083.

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1219 (8) The Attorney General, the Attorney General's designee,
1220 or a state attorney may bring an action in the appropriate court
1221 in the state to prevent or restrain violations of this section
1222 by any person.

1223 Section 35. Section 877.112, Florida Statutes, is repealed.

1224 Section 36. This act shall take effect October 1, 2021.