

1 A bill to be entitled

2 An act relating to age restrictions on tobacco and  
3 nicotine products; amending s. 210.15, F.S.; revising  
4 the age limits for permits relating to cigarettes;  
5 amending s. 386.212, F.S.; revising age and time  
6 restrictions relating to the prohibition of smoking  
7 and vaping near school property; amending s. 569.002,  
8 F.S.; revising the definition of the term "tobacco  
9 products"; defining the term "vapor-generating  
10 electronic device"; deleting the definition of the  
11 term "any person under the age of 18"; amending s.  
12 569.003, F.S.; revising the age limits for retail  
13 tobacco products dealer permits; amending s. 569.007,  
14 F.S.; revising prohibitions on the sale or delivery of  
15 tobacco products from vending machines; conforming  
16 provisions to federal law; amending s. 569.101, F.S.;  
17 requiring the age of persons purchasing tobacco  
18 products to be verified under certain circumstances;  
19 repealing s. 877.112, F.S., relating to nicotine  
20 products and nicotine dispensing devices; amending ss.  
21 210.095, 569.0075, 569.008, 569.11, 569.12, 569.14,  
22 and 569.19, F.S.; conforming provisions to federal law  
23 and changes made by the act; providing an effective  
24 date.  
25

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

27

28 Section 1. Paragraph (b) of subsection (1) of section  
29 210.15, Florida Statutes, is amended to read:

30 210.15 Permits.—

31 (1)

32 (b) Permits shall be issued only to persons of good moral  
33 character who are 21 ~~not less than 18~~ years of age or older.

34 Permits to corporations shall be issued only to corporations  
35 whose officers are of good moral character and 21 ~~not less than~~  
36 ~~18~~ years of age or older. There shall be no exemptions from the  
37 permit fees herein provided to any persons, association of  
38 persons, or corporation, any law to the contrary  
39 notwithstanding.

40 Section 2. Subsection (1) of section 386.212, Florida  
41 Statutes, is amended to read:

42 386.212 Smoking and vaping prohibited near school  
43 property; penalty.—

44 (1) It is unlawful for any person younger than 21 ~~under 18~~  
45 years of age to smoke tobacco or vape in, on, or within 1,000  
46 feet of the real property comprising a public or private  
47 elementary, middle, or secondary school ~~between the hours of 6~~  
48 ~~a.m. and midnight~~. This section does not apply to any person  
49 occupying a moving vehicle or within a private residence.

50 Section 3. Subsections (6) and (7) of section 569.002,

51 Florida Statutes, are amended to read:

52 569.002 Definitions.—As used in this chapter, the term:

53 (6) "Tobacco products" includes:

54 (a) Any product containing, made of, or derived from  
55 tobacco or nicotine that is intended for human consumption or is  
56 likely to be consumed, whether inhaled, absorbed, or ingested by  
57 any other means, including a cigarette, a cigar, pipe tobacco,  
58 chewing tobacco, snuff, or snus;

59 (b) Any vapor-generating electronic device and any  
60 substance that may be aerosolized or vaporized during the use of  
61 the device, regardless of whether the substance contains  
62 nicotine; or

63 (c) Any component, part, or accessory of a product  
64 described in paragraph (a) or paragraph (b), regardless of  
65 whether the component, part, or accessory contains tobacco or  
66 nicotine, including a filter, rolling paper, blunt or hemp wrap,  
67 or pipe.

68  
69 The term does not include any drug, device, or combination  
70 product authorized for sale by the United States Food and Drug  
71 Administration, as those terms are defined or described in the  
72 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ss. 321 and  
73 353(g), as such sections were in effect on July 1, 2021 ~~these~~  
74 ~~tobacco leaves, and products made from tobacco leaves, in whole~~  
75 ~~or in part, and cigarette wrappers, which can be used for~~

76 ~~smoking, sniffing, or chewing.~~

77       (7) "Vapor-generating electronic device" means any product  
78 that employs an electronic, a chemical, or a mechanical means  
79 capable of producing vapor or aerosol from a nicotine product or  
80 any other substance, including an electronic cigarette, an  
81 electronic cigar, an electronic cigarillo, an electronic pipe, a  
82 vape pen, an electronic hookah, or any other similar device or  
83 product; any replacement cartridge for such device; or any other  
84 container of nicotine in a solution or other substance form  
85 intended to be used with or within an electronic cigarette, an  
86 electronic cigar, an electronic cigarillo, an electronic pipe, a  
87 vape pen, an electronic hookah, or any other similar device or  
88 product. The term includes any component, part, or accessory of  
89 the device and also includes any substance intended to be  
90 aerosolized or vaporized during the use of the device,  
91 regardless of whether the substance contains nicotine.

92  
93 The term does not include any drug, device, or combination  
94 product authorized for sale by the United States Food and Drug  
95 Administration, as those terms are defined or described in the  
96 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ss. 321 and  
97 353(g), as such sections were in effect on July 1, 2021 ~~"Any~~  
98 ~~person under the age of 18" does not include any person under~~  
99 ~~the age of 18 who:~~

100       ~~(a) Has had his or her disability of nonage removed under~~

101 ~~chapter 743;~~

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

104 ~~(c) Is otherwise emancipated by a court of competent~~  
 105 ~~jurisdiction and released from parental care and responsibility;~~  
 106 ~~or~~

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

110 Section 4. Paragraph (a) of subsection (2) of section  
 111 569.003, Florida Statutes, is amended to read:

112 569.003 Retail tobacco products dealer permits;  
 113 application; qualifications; fees; renewal; duplicates.—

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

117 Section 5. Subsections (3) through (5) of section 569.007,  
 118 Florida Statutes, are renumbered as subsections (2) through (4),  
 119 respectively, and subsection (1) and present subsection (2) of  
 120 that section are amended to read:

121 569.007 Sale or delivery of tobacco products;  
 122 restrictions.—

123 (1) In order to prevent persons younger than 21 ~~under 18~~  
 124 years of age from purchasing or receiving tobacco products, the  
 125 sale or delivery of tobacco products is prohibited, except:

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

128 (b) Sales from a vending machine are prohibited under ~~the~~  
 129 ~~provisions of~~ paragraph ~~(1)~~(a) and are only permissible from a  
 130 machine that is located in an establishment that prohibits  
 131 persons younger than 21 years of age on the licensed premises at  
 132 all times ~~equipped with an operational lockout device which is~~  
 133 ~~under the control of the dealer or the dealer's agent or~~  
 134 ~~employee who directly regulates the sale of items through the~~  
 135 ~~machine by triggering the lockout device to allow the dispensing~~  
 136 ~~of one tobacco product. The lockout device must include a~~  
 137 ~~mechanism to prevent the machine from functioning if the power~~  
 138 ~~source for the lockout device fails or if the lockout device is~~  
 139 ~~disabled, and a mechanism to ensure that only one tobacco~~  
 140 ~~product is dispensed at a time.~~

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

144 Section 6. Section 569.101, Florida Statutes, is amended  
 145 to read:

146 569.101 Selling, delivering, bartering, furnishing, or  
 147 giving tobacco products to persons younger than 21 ~~under 18~~  
 148 years of age; criminal penalties; defense.-

149 (1) It is unlawful to sell, deliver, barter, furnish, or  
 150 give, directly or indirectly, any tobacco product to any person

151 who is younger than 21 ~~under 18~~ years of age, ~~any tobacco~~  
152 ~~product~~.

153 (2) Any person who violates subsection (1) commits a  
154 misdemeanor of the second degree, punishable as provided in s.  
155 775.082 or s. 775.083. However, any person who violates  
156 subsection (1) for a second or subsequent time within 1 year  
157 after ~~of~~ the first violation, ~~commits a misdemeanor of the first~~  
158 ~~degree, punishable as provided in s. 775.082 or s. 775.083.~~

159 (3) A person charged with a violation of subsection (1)  
160 has a complete defense if, at the time the tobacco product was  
161 sold, delivered, bartered, furnished, or given, all of the  
162 following criteria were met:

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

165 (b) The appearance of the buyer or recipient was such that  
166 a prudent person would believe the buyer or recipient to be 21  
167 ~~18~~ years of age or older. ~~;~~ ~~and~~

168 (c) Such person carefully checked a driver license or an  
169 identification card issued by this state or another state of the  
170 United States, a passport, or a United States Armed Services  
171 identification card presented by the buyer or recipient and  
172 acted in good faith and in reliance upon the representation and  
173 appearance of the buyer or recipient in the belief that the  
174 buyer or recipient was 21 ~~18~~ years of age or older.

175 (4) A person must verify by means of the identification

176 specified in paragraph (3)(c) that a buyer or recipient of a  
177 tobacco product is not younger than 21 years of age. Such  
178 verification is not required for any person who appears to be  
179 older than 30 years of age.

180 Section 7. Section 877.112, Florida Statutes, is repealed.

181 Section 8. Paragraphs (a) and (b) of subsection (5) of  
182 section 210.095, Florida Statutes, are amended to read:

183 210.095 Mail order, Internet, and remote sales of tobacco  
184 products; age verification.—

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

188 (a) Include as part of the shipping documents, in a clear  
189 and conspicuous manner, the following statement: "Tobacco  
190 Products: Florida law prohibits shipping to individuals younger  
191 than 21 ~~under 18~~ years of age and requires the payment of all  
192 applicable taxes."

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

195 1. The individual submitting the order for the delivery  
196 sale or another adult who resides at the individual's address to  
197 sign his or her name to accept delivery of the shipping  
198 container. Proof of the legal minimum purchase age of the  
199 individual accepting delivery is required only if the individual  
200 appears to be younger than 30 ~~under 27~~ years of age.



201           2. Proof that the individual is either the addressee or  
202 the adult designated by the addressee, in the form of a valid,  
203 government-issued identification card bearing a photograph of  
204 the individual who signs to accept delivery of the shipping  
205 container.

206  
207 If the person accepting a purchase order for a delivery sale  
208 delivers the tobacco products without using a delivery service,  
209 the person must comply with all of the requirements of this  
210 section which apply to a delivery service. Any failure to comply  
211 with a requirement of this section constitutes a violation  
212 thereof.

213           Section 9. Section 569.0075, Florida Statutes, is amended  
214 to read:

215           569.0075 Gift of sample tobacco products prohibited.—The  
216 gift of sample tobacco products to any person younger than 21  
217 years of age ~~under the age of 18~~ by an entity licensed or  
218 permitted under ~~the provisions of~~ chapter 210 or this chapter,  
219 or by an employee of such entity, is prohibited and is  
220 punishable as provided in s. 569.101.

221           Section 10. Subsection (1), paragraphs (b) and (c) of  
222 subsection (2), and subsection (3) of section 569.008, Florida  
223 Statutes, are amended to read:

224           569.008 Responsible retail tobacco products dealers;  
225 qualifications; mitigation of disciplinary penalties; diligent

226 management and supervision; presumption.—

227 (1) The Legislature intends to prevent the sale of tobacco  
228 products to persons younger than 21 ~~under 18~~ years of age and to  
229 encourage retail tobacco products dealers to comply with  
230 responsible practices in accordance with this section.

231 (2) To qualify as a responsible retail tobacco products  
232 dealer, the dealer must establish and implement procedures  
233 designed to ensure that the dealer's employees comply with the  
234 provisions of this chapter. The dealer must provide a training  
235 program for the dealer's employees which addresses the use and  
236 sale of tobacco products and which includes at least the  
237 following topics:

238 (b) Methods of recognizing and handling customers younger  
239 than 21 ~~under 18~~ years of age.

240 (c) Procedures for proper examination of identification  
241 cards in order to verify that customers are not younger than 21  
242 ~~under 18~~ years of age.

243 (3) In determining penalties under s. 569.006, the  
244 division may mitigate penalties imposed against a dealer because  
245 of an employee's illegal sale of a tobacco product to a person  
246 younger than 21 ~~under 18~~ years of age if the following  
247 conditions are met:

248 (a) The dealer is qualified as a responsible dealer under  
249 this section.

250 (b) The dealer provided the training program required

251 | under subsection (2) to that employee before the illegal sale  
 252 | occurred.

253 | (c) The dealer had no knowledge of that employee's  
 254 | violation at the time of the violation and did not direct,  
 255 | approve, or participate in the violation.

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

258 | Section 11. Section 569.11, Florida Statutes, is amended  
 259 | to read:

260 | 569.11 Possession, misrepresenting age ~~or military service~~  
 261 | to purchase, and purchase of tobacco products by persons younger  
 262 | than 21 ~~under 18~~ years of age prohibited; penalties;  
 263 | jurisdiction; disposition of fines.—

264 | (1) It is unlawful for any person younger than 21 ~~under 18~~  
 265 | years of age to knowingly possess any tobacco product. Any  
 266 | person younger than 21 ~~under 18~~ years of age who violates this  
 267 | subsection commits a noncriminal violation as provided in s.  
 268 | 775.08(3), punishable by:

269 | (a) For a first violation, 16 hours of community service  
 270 | or, instead of community service, a \$25 fine. In addition, the  
 271 | person must attend a school-approved anti-tobacco program, if  
 272 | locally available; or

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

275 |

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

279 (2) It is unlawful for any person younger than 21 ~~under 18~~  
 280 years of age to misrepresent his or her age ~~or military service~~  
 281 for the purpose of inducing a dealer or an agent or employee of  
 282 the dealer to sell, give, barter, furnish, or deliver any  
 283 tobacco product, or to purchase, or attempt to purchase, any  
 284 tobacco product from a person or a vending machine. Any person  
 285 younger than 21 ~~under 18~~ years of age who violates this  
 286 subsection commits a noncriminal violation as provided in s.  
 287 775.08(3), punishable by:

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

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

294  
 295 Any second or subsequent violation not within the 12-week period  
 296 after the first violation is punishable as provided for a first  
 297 violation.

298 (3) Any person younger than 21 ~~under 18~~ years of age cited  
 299 for committing a noncriminal violation under this section must  
 300 sign and accept a civil citation indicating a promise to appear

301 before the county court or comply with the requirement for  
302 paying the fine and must attend a school-approved anti-tobacco  
303 program, if locally available. If a fine is assessed for a  
304 violation of this section, the fine must be paid within 30 days  
305 after the date of the citation or, if a court appearance is  
306 mandatory, within 30 days after the date of the hearing.

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

317 (5) (a) If a person younger than 21 ~~under 18~~ years of age  
318 is found by the court to have committed a noncriminal violation  
319 under this section and that person has failed to complete  
320 community service, pay the fine as required by paragraph (1) (a)  
321 or paragraph (2) (a), or attend a school-approved anti-tobacco  
322 program, if locally available, the court may direct the  
323 Department of Highway Safety and Motor Vehicles to withhold  
324 issuance of or suspend the driver license or driving privilege  
325 of that person for a period of 30 consecutive days.

326 (b) If a person younger than 21 ~~under 18~~ years of age is  
 327 found by the court to have committed a noncriminal violation  
 328 under this section and that person has failed to pay the  
 329 applicable fine as required by paragraph (1)(b) or paragraph  
 330 (2)(b), the court may direct the Department of Highway Safety  
 331 and Motor Vehicles to withhold issuance of or suspend the driver  
 332 license or driving privilege of that person for a period of 45  
 333 consecutive days.

334 (6) Eighty percent of all civil penalties received by a  
 335 county court pursuant to this section shall be remitted by the  
 336 clerk of the court to the Department of Revenue for transfer to  
 337 the Department of Education to provide for teacher training and  
 338 for research and evaluation to reduce and prevent the use of  
 339 tobacco products by children. The remaining 20 percent of civil  
 340 penalties received by a county court pursuant to this section  
 341 shall remain with the clerk of the county court to cover  
 342 administrative costs.

343 Section 12. Paragraph (b) of subsection (2) and subsection  
 344 (3) of section 569.12, Florida Statutes, are amended to read:

345 569.12 Jurisdiction; tobacco product enforcement officers  
 346 or agents; enforcement.—

347 (2)

348 (b) A tobacco product enforcement officer is authorized to  
 349 issue a citation to a person younger than 21 years of age ~~under~~  
 350 ~~the age of 18~~ when, based upon personal investigation, the

351 officer has reasonable cause to believe that the person has  
 352 committed a civil infraction in violation of s. 386.212 or s.  
 353 569.11.

354 (3) A correctional probation officer as defined in s.  
 355 943.10(3) is authorized to issue a citation to a person younger  
 356 than 21 years of age ~~under the age of 18~~ when, based upon  
 357 personal investigation, the officer has reasonable cause to  
 358 believe that the person has committed a civil infraction in  
 359 violation of s. 569.11.

360 Section 13. Section 569.14, Florida Statutes, is amended  
 361 to read:

362 569.14 Posting of a sign stating that the sale of tobacco  
 363 products to persons younger than 21 ~~under 18~~ years of age is  
 364 unlawful; enforcement; penalty.-

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

368  
 369 THE SALE OF TOBACCO PRODUCTS TO PERSONS YOUNGER THAN  
 370 21 YEARS OF ~~UNDER THE AGE OF 18~~ IS AGAINST FLORIDA  
 371 LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

372  
 373 ~~(2) A dealer that sells tobacco products and nicotine~~  
 374 ~~products or nicotine dispensing devices, as defined in s.~~  
 375 ~~877.112, may use a sign that substantially states the following:~~

376  
 377 ~~THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR~~  
 378 ~~NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE~~  
 379 ~~OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED~~  
 380 ~~FOR PURCHASE.~~

381  
 382 ~~A dealer that uses a sign as described in this subsection meets~~  
 383 ~~the signage requirements of subsection (1) and s. 877.112.~~

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

387 (3)~~(4)~~ Any dealer that sells tobacco products shall  
 388 provide at the checkout counter in a location clearly visible to  
 389 the dealer or the dealer's agent or employee instructional  
 390 material in a calendar format or similar format to assist in  
 391 determining whether a person is of legal age to purchase tobacco  
 392 products. This point of sale material must contain substantially  
 393 the following language:

394  
 395 IF YOU WERE NOT BORN BEFORE THIS DATE  
 396 (insert date and applicable year)  
 397 YOU CANNOT BUY TOBACCO PRODUCTS.

398  
 399 Upon approval by the division, in lieu of a calendar a dealer  
 400 may use card readers, scanners, or other electronic or automated



401 systems that can verify whether a person is of legal age to  
402 purchase tobacco products. Failure to comply with the provisions  
403 contained in this subsection shall result in imposition of  
404 administrative penalties as provided in s. 569.006.

405 ~~(4)(5)~~ The division, through its agents and inspectors,  
406 shall enforce this section.

407 ~~(5)(6)~~ Any person who fails to comply with subsection (1)  
408 is guilty of a misdemeanor of the second degree, punishable as  
409 provided in s. 775.082 or s. 775.083.

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

412 569.19 Annual report.—The division shall report annually  
413 with written findings to the Legislature and the Governor by  
414 December 31, on the progress of implementing the enforcement  
415 provisions of this chapter. This must include, but is not  
416 limited to:

417 (3) The number of violations for selling tobacco products  
418 to persons younger than 21 years of age ~~under age 18~~, and the  
419 results of administrative hearings on the above and related  
420 issues.

421 (4) The number of persons younger than 21 years of age  
422 ~~under age 18~~ cited for violations of s. 569.11 and sanctions  
423 imposed as a result of citation.

424 Section 15. This act shall take effect July 1, 2021.