

1                                    A bill to be entitled  
 2                    An act relating to tobacco and nicotine products;  
 3                    amending s. 210.095, F.S.; deleting a definition;  
 4                    revising age restrictions relating to mail order,  
 5                    Internet, and remote sales of tobacco products;  
 6                    amending s. 386.212, F.S.; revising age restrictions  
 7                    relating to smoking and vaping near school property;  
 8                    renaming ch. 569, F.S.; providing directives to the  
 9                    Division of Law Revision; amending s. 569.002, F.S.;  
 10                    revising and providing definitions; amending ss.  
 11                    569.003, 569.004, 569.006, 569.0075, 569.008, 569.009,  
 12                    569.101, 569.11, and 569.19, F.S.; conforming  
 13                    provisions to changes made by the act; amending s.  
 14                    569.007, F.S.; requiring verification of the age of  
 15                    persons purchasing tobacco products under certain  
 16                    circumstances; conforming provisions to changes made  
 17                    by the act; amending s. 569.12, F.S.; expanding  
 18                    authority of tobacco product enforcement officers to  
 19                    include nicotine products; amending s. 569.14, F.S.;  
 20                    revising requirements for certain signage; creating s.  
 21                    569.24, F.S.; preempting the establishment of the  
 22                    minimum age for purchasing or possessing tobacco  
 23                    products or nicotine products and the regulation of  
 24                    the marketing, sale, or delivery of such products to  
 25                    the state; creating s. 569.31, F.S.; providing

26 | definitions; creating s. 569.32, F.S.; requiring  
27 | retail nicotine products dealers to obtain a permit;  
28 | providing requirements for such permit; creating s.  
29 | 569.33, F.S.; providing for consent to inspection and  
30 | search without warrant; creating s. 569.34, F.S.;  
31 | prohibiting certain persons, firms, associations, or  
32 | corporations from operating without a retail nicotine  
33 | products dealer permit; providing civil penalties;  
34 | creating s. 569.35, F.S.; providing administrative  
35 | penalties for retail nicotine products dealers under  
36 | certain circumstances; creating s. 569.37, F.S.;  
37 | providing restrictions on the sale or delivery of  
38 | nicotine products; creating s. 569.38, F.S.;  
39 | prohibiting giving nicotine product samples to certain  
40 | persons; creating s. 569.381, F.S.; providing  
41 | legislative intent; providing qualifications for  
42 | responsible retail nicotine products dealers;  
43 | authorizing the Division of Alcoholic Beverages and  
44 | Tobacco within the Department of Business and  
45 | Professional Regulation to mitigate administrative  
46 | penalties under certain circumstances; requiring the  
47 | division to develop and make available a nicotine  
48 | products training program; requiring nicotine products  
49 | dealers to exercise diligence in the management and  
50 | supervision of their premises and the supervision and

51 training of certain persons; creating s. 569.39, F.S.;  
52 requiring the division to adopt rules; creating s.  
53 569.41, F.S.; prohibiting the selling, delivering,  
54 bartering, furnishing, or giving of nicotine products  
55 to certain persons; providing criminal penalties;  
56 providing a defense; creating s. 569.42, F.S.;  
57 prohibiting possessing, misrepresenting age or  
58 military service to purchase, and purchasing nicotine  
59 products by certain persons; providing civil  
60 penalties; authorizing the Department of Highway  
61 Safety and Motor Vehicles to withhold issuance of or  
62 suspend a driver license or driving privileges under  
63 certain circumstances; providing for the use of fees  
64 collected; creating s. 569.43, F.S.; providing signage  
65 requirements; providing for enforcement; providing  
66 criminal penalties; creating s. 569.44, F.S.;  
67 requiring the division to provide an annual report  
68 containing specified information to the Governor and  
69 Legislature; creating s. 569.45, F.S.; providing  
70 definitions; providing requirements for mail order,  
71 Internet, and remote sales of nicotine products;  
72 providing applicability; providing criminal penalties;  
73 providing for a cause of action to prevent or restrain  
74 specified violations; repealing s. 877.112, F.S.,  
75 relating to nicotine products and nicotine dispensing

76 devices; providing an effective date.

77  
78 Be It Enacted by the Legislature of the State of Florida:

79  
80 Section 1. Paragraphs (b) through (j) of subsection (1) of  
81 section 210.095, Florida Statutes, are redesignated as  
82 paragraphs (a) through (i), respectively, and present paragraph  
83 (a) of subsection (1), paragraphs (a) and (c) of subsection (2),  
84 paragraph (a) of subsection (3), paragraph (a) of subsection  
85 (4), paragraphs (a) and (b) of subsection (5), and paragraphs  
86 (a), (b), (e), and (g) of subsection (8) of that section are  
87 amended to read:

88 210.095 Mail order, Internet, and remote sales of tobacco  
89 products; age verification.—

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

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

93 (2) (a) A sale of tobacco products constituting a delivery  
94 sale pursuant to paragraph (1) (b) ~~(1) (e)~~ is a delivery sale  
95 regardless of whether the person accepting the order for the  
96 delivery sale is located inside or outside this state.

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

100 (3) A person may not mail, ship, or otherwise deliver

101 tobacco products in connection with an order for a delivery sale  
 102 unless, before the first delivery to the consumer, the person  
 103 accepting the order for the delivery sale:

104 (a) Obtains from the individual submitting the order a  
 105 certification that includes:

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

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

110 a. Certifies the address and date of birth of the  
 111 individual; and

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

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

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

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

121  
 122 In addition to the requirements of this subsection, a person  
 123 accepting an order for a delivery sale may request that a  
 124 consumer provide an electronic mail address.

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

126 prominent and clearly legible statements that sales of tobacco  
127 products are:

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

130

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

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

136 (a) Include as part of the shipping documents, in a clear  
137 and conspicuous manner, the following statement: "Tobacco  
138 Products: Florida law prohibits shipping to individuals under 21  
139 ~~18~~ years of age and requires the payment of all applicable  
140 taxes."

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

143 1. The individual submitting the order for the delivery  
144 sale or another individual who is 21 years of age or older ~~adult~~  
145 who resides at the individual's address to sign his or her name  
146 to accept delivery of the shipping container. Proof of the legal  
147 minimum purchase age of the individual accepting delivery is  
148 required only if the individual appears to be under 30 ~~27~~ years  
149 of age.

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

151 the individual who is 21 years of age or older ~~adult~~ designated  
152 by the addressee, in the form of a valid, government-issued  
153 identification card bearing a photograph of the individual who  
154 signs to accept delivery of the shipping container.

155

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

162 (8) (a) Except as otherwise provided in this section, a  
163 violation of this section by a person other than an individual  
164 who is not 21 years of age or older ~~an adult~~ is a misdemeanor of  
165 the first degree, punishable as provided in s. 775.082 or s.  
166 775.083, and:

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

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

174 (b) A person who is 21 years of age or older ~~an adult~~ and  
175 knowingly submits a false certification under subsection (3)

176 commits a misdemeanor of the first degree, punishable as  
 177 provided in s. 775.082 or s. 775.083. For each offense, the  
 178 person shall be fined \$10,000 or five times the retail value of  
 179 the tobacco products involved in the violation, whichever is  
 180 greater.

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

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

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

192 386.212 Smoking and vaping prohibited near school  
 193 property; penalty.—

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

200 Section 3. Chapter 569, Florida Statutes, entitled



201 "Tobacco Products" is renamed "Tobacco and Nicotine Products."

202 Section 4. The Division of Law Revision is directed to:

203 (1) Create part I of chapter 569, Florida Statutes,  
 204 consisting of ss. 569.002-569.24, Florida Statutes, to be  
 205 entitled "Tobacco Products."

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

209 Section 5. Section 569.002, Florida Statutes, is amended  
 210 to read:

211 569.002 Definitions.—As used in this part ~~chapter~~, the  
 212 term:

213 (1) ~~(7)~~ "Any person under the age of 21 ~~18~~" does not  
 214 include any person under the age of 21 ~~18~~ who:

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

217 (a) ~~(b)~~ Is in the military reserve or on active duty in the  
 218 Armed Forces of the United States; or

219 ~~(c) Is otherwise emancipated by a court of competent~~  
 220 ~~jurisdiction and released from parental care and responsibility;~~  
 221 ~~or~~

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

225 (2) ~~(1)~~ "Dealer" is synonymous with the term "retail

226 tobacco products dealer."

227 (3)~~(2)~~ "Division" means the Division of Alcoholic  
 228 Beverages and Tobacco of the Department of Business and  
 229 Professional Regulation.

230 (4) "Nicotine dispensing device" has the same meaning as  
 231 in s. 569.31.

232 (5) "Nicotine product" has the same meaning as in s.  
 233 569.31.

234 (6)~~(3)~~ "Permit" is synonymous with the term "retail  
 235 tobacco products dealer permit."

236 (7)~~(4)~~ "Retail tobacco products dealer" means the holder  
 237 of a retail tobacco products dealer permit.

238 (8)~~(5)~~ "Retail tobacco products dealer permit" means a  
 239 permit issued by the division pursuant to s. 569.003.

240 (9)~~(6)~~ "Tobacco products" includes loose tobacco leaves,  
 241 and products made from tobacco leaves, in whole or in part, and  
 242 cigarette wrappers, which can be used for smoking, sniffing, or  
 243 chewing.

244 Section 6. Paragraph (c) of subsection (1) of section  
 245 569.003, Florida Statutes, is amended to read:

246 569.003 Retail tobacco products dealer permits;  
 247 application; qualifications; fees; renewal; duplicates.—

248 (1)

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

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

256 Section 7. Section 569.004, Florida Statutes, is amended  
257 to read:

258 569.004 Consent to inspection and search without warrant.—  
259 An applicant for a permit, by accepting the permit when issued,  
260 agrees that the place or premises covered by the permit is  
261 subject to inspection and search without a search warrant by the  
262 division or its authorized assistants, and by sheriffs, deputy  
263 sheriffs, or police officers, to determine compliance with this  
264 chapter, including part II of this chapter if the applicant  
265 deals, at retail, in nicotine products within the state or  
266 allows a nicotine products vending machine to be located on its  
267 premises within the state.

268 Section 8. Section 569.006, Florida Statutes, is amended  
269 to read:

270 569.006 Retail tobacco products dealers; administrative  
271 penalties.—The division may suspend or revoke the permit of the  
272 dealer upon sufficient cause appearing of the violation of any  
273 of the provisions of this chapter, including part II of this  
274 chapter if the dealer deals, at retail, in nicotine products  
275 within the state or allows a nicotine products vending machine

276 | to be located on its premises within the state, by a dealer or  
 277 | by a dealer's agent or employee. The division may also assess  
 278 | and accept administrative fines of up to \$1,000 against a dealer  
 279 | for each violation. The division shall deposit all fines  
 280 | collected into the General Revenue Fund as collected. An order  
 281 | imposing an administrative fine becomes effective 15 days after  
 282 | the date of the order. The division may suspend the imposition  
 283 | of a penalty against a dealer, conditioned upon the dealer's  
 284 | compliance with terms the division considers appropriate.

285 | Section 9. Subsections (1), (2), and (4) of section  
 286 | 569.007, Florida Statutes, are amended to read:

287 | 569.007 Sale or delivery of tobacco products;  
 288 | restrictions.—

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

292 | (a) When under the direct control or line of sight of the  
 293 | dealer or the dealer's agent or employee; or

294 | (b) Sales from a vending machine are prohibited under the  
 295 | provisions of paragraph ~~(1)~~(a) and are only permissible from a  
 296 | machine that is equipped with an operational lockout device  
 297 | which is under the control of the dealer or the dealer's agent  
 298 | or employee who directly regulates the sale of items through the  
 299 | machine by triggering the lockout device to allow the dispensing  
 300 | of one tobacco product. The lockout device must include a

301 mechanism to prevent the machine from functioning if the power  
302 source for the lockout device fails or if the lockout device is  
303 disabled, and a mechanism to ensure that only one tobacco  
304 product is dispensed at a time.

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

308 (4) A dealer or a dealer's agent or employee must ~~may~~  
309 require proof of age of a purchaser of a tobacco product before  
310 selling the product to that person, unless the purchaser appears  
311 to be 30 years of age or older.

312 Section 10. Section 569.0075, Florida Statutes, is amended  
313 to read:

314 569.0075 Gift of sample tobacco products prohibited.—The  
315 gift of sample tobacco products to any person under the age of  
316 21 ~~18~~ by an entity licensed or permitted under the provisions of  
317 chapter 210 or this part ~~chapter~~, or by an employee of such  
318 entity, is prohibited and is punishable as provided in s.  
319 569.101.

320 Section 11. Subsections (1), (2), and (3) of section  
321 569.008, Florida Statutes, are amended to read:

322 569.008 Responsible retail tobacco products dealers;  
323 qualifications; mitigation of disciplinary penalties; diligent  
324 management and supervision; presumption.—

325 (1) The Legislature intends to prevent the sale of tobacco

326 products to persons under 21 ~~18~~ years of age and to encourage  
327 retail tobacco products dealers to comply with responsible  
328 practices in accordance with this section.

329 (2) To qualify as a responsible retail tobacco products  
330 dealer, the dealer must establish and implement procedures  
331 designed to ensure that the dealer's employees comply with the  
332 provisions of this part ~~chapter~~. The dealer must provide a  
333 training program for the dealer's employees which addresses the  
334 use and sale of tobacco products and which includes at least the  
335 following topics:

336 (a) Laws covering the sale of tobacco products.

337 (b) Methods of recognizing and handling customers under 21  
338 ~~18~~ years of age.

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

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

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

348 (a) The dealer is qualified as a responsible dealer under  
349 this section.

350 (b) The dealer provided the training program required

351 under subsection (2) to that employee before the illegal sale  
352 occurred.

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

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

358 Section 12. Section 569.009, Florida Statutes, is amended  
359 to read:

360 569.009 Rulemaking authority.—The division shall adopt any  
361 rules necessary to administer and enforce the provisions of this  
362 part ~~chapter~~.

363 Section 13. Section 569.101, Florida Statutes, is amended  
364 to read:

365 569.101 Selling, delivering, bartering, furnishing, or  
366 giving tobacco products to persons under 21 ~~18~~ years of age;  
367 criminal penalties; defense.—

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

371 (2) Any person who violates subsection (1) commits a  
372 misdemeanor of the second degree, punishable as provided in s.  
373 775.082 or s. 775.083. However, any person who violates  
374 subsection (1) for a second or subsequent time within 1 year  
375 after ~~of~~ the first violation, commits a misdemeanor of the first

376 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

382 (b) The appearance of the buyer or recipient was such that  
 383 a prudent person would believe the buyer or recipient to be 21  
 384 ~~18~~ years of age or older; and

385 (c) Such person carefully checked a driver license or an  
 386 identification card issued by this state or another state of the  
 387 United States, a passport, or a United States Armed Services  
 388 identification card presented by the buyer or recipient and  
 389 acted in good faith and in reliance upon the representation and  
 390 appearance of the buyer or recipient in the belief that the  
 391 buyer or recipient was 21 ~~18~~ years of age or older.

392 Section 14. Section 569.11, Florida Statutes, is amended  
 393 to read:

394 569.11 Possession, misrepresenting age or military service  
 395 to purchase, and purchase of tobacco products by persons under  
 396 21 ~~18~~ years of age prohibited; penalties; jurisdiction;  
 397 disposition of fines.—

398 (1) It is unlawful for any person under 21 ~~18~~ years of age  
 399 to knowingly possess any tobacco product. Any person under 21 ~~18~~  
 400 years of age who violates this subsection commits a noncriminal



401 violation as provided in s. 775.08(3), punishable by:

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

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

408

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

412 (2) It is unlawful for any person under 21 ~~18~~ years of age  
413 to misrepresent his or her age or military service for the  
414 purpose of inducing a dealer or an agent or employee of the  
415 dealer to sell, give, barter, furnish, or deliver any tobacco  
416 product, or to purchase, or attempt to purchase, any tobacco  
417 product from a person or a vending machine. Any person under 21  
418 ~~18~~ years of age who violates this subsection commits a  
419 noncriminal violation as provided in s. 775.08(3), punishable  
420 by:

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

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

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

427

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

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

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

450 (5) (a) If a person under 21 ~~18~~ years of age is found by

451 the court to have committed a noncriminal violation under this  
452 section and that person has failed to complete community  
453 service, pay the fine as required by paragraph (1) (a) or  
454 paragraph (2) (a), or attend a school-approved anti-tobacco  
455 program, if locally available, the court may direct the  
456 Department of Highway Safety and Motor Vehicles to withhold  
457 issuance of or suspend the driver license or driving privilege  
458 of that person for a period of 30 consecutive days.

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

466 (6) Eighty percent of all civil penalties received by a  
467 county court pursuant to this section shall be remitted by the  
468 clerk of the court to the Department of Revenue for transfer to  
469 the Department of Education to provide for teacher training and  
470 for research and evaluation to reduce and prevent the use of  
471 tobacco products by children. The remaining 20 percent of civil  
472 penalties received by a county court pursuant to this section  
473 shall remain with the clerk of the county court to cover  
474 administrative costs.

475 Section 15. Section 569.12, Florida Statutes, is amended

476 to read:

477 569.12 Jurisdiction; tobacco product and nicotine product  
 478 enforcement officers or agents; enforcement.—

479 (1) In addition to the Division of Alcoholic Beverages and  
 480 Tobacco of the Department of Business and Professional  
 481 Regulation, any law enforcement officer certified under s.  
 482 943.10(1), (6), or (8) shall enforce the provisions of this  
 483 chapter.

484 (2) (a) A county or municipality may designate certain of  
 485 its employees or agents as tobacco product and nicotine product  
 486 enforcement officers. The training and qualifications of the  
 487 employees or agents for such designation shall be determined by  
 488 the county or the municipality. Nothing in this section shall be  
 489 construed to permit the carrying of firearms or other weapons by  
 490 a tobacco product and nicotine product enforcement agent, nor  
 491 does designation as a tobacco product and nicotine product  
 492 enforcement officer provide the employee or agent with the power  
 493 of arrest or subject the employee or agent to the provisions of  
 494 ss. 943.085-943.255. Nothing in this section amends, alters, or  
 495 contravenes the provisions of any state-administered retirement  
 496 system or any state-supported retirement system established by  
 497 general law.

498 (b) A tobacco product and nicotine product enforcement  
 499 officer is authorized to issue a citation to a person under the  
 500 age of 21 ~~18~~ when, based upon personal investigation, the

501 officer has reasonable cause to believe that the person has  
502 committed a civil infraction in violation of s. 386.212, ~~or~~ s.  
503 569.11, or s. 569.42.

504 (3) A correctional probation officer as defined in s.  
505 943.10(3) is authorized to issue a citation to a person under  
506 the age of 21 ~~18~~ when, based upon personal investigation, the  
507 officer has reasonable cause to believe that the person has  
508 committed a civil infraction in violation of s. 569.11 or s.  
509 569.42.

510 (4) A citation issued to any person violating the  
511 provisions of s. 569.11 or s. 569.42 shall be in a form  
512 prescribed by the Division of Alcoholic Beverages and Tobacco of  
513 the Department of Business and Professional Regulation and shall  
514 contain:

515 (a) The date and time of issuance.

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

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

519 (d) The facts constituting reasonable cause.

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

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

522 (g) The procedure for the person to follow in order to  
523 contest the citation, perform the required community service,  
524 attend the required anti-tobacco or anti-tobacco and anti-  
525 nicotine program, or ~~to~~ pay the civil penalty.

526 Section 16. Section 569.14, Florida Statutes, is amended  
 527 to read:

528 569.14 Posting of a sign stating that the sale of tobacco  
 529 products or nicotine products to persons under 21 ~~18~~ years of  
 530 age is unlawful; enforcement; penalty.—

531 (1) A dealer that sells tobacco products shall post a  
 532 clear and conspicuous sign in each place of business where such  
 533 products are sold which substantially states the following:  
 534 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 21 ~~18~~  
 535 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

536 (2) A dealer that sells tobacco products and nicotine  
 537 products or nicotine dispensing devices, ~~as defined in s.~~  
 538 ~~877.112,~~ may use a sign that substantially states the following:

540 THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR  
 541 NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE  
 542 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS  
 543 REQUIRED FOR PURCHASE.

544  
 545 A dealer that uses a sign as described in this subsection meets  
 546 the signage requirements of subsection (1) and s. 569.43(1) ~~s.~~  
 547 ~~877.112.~~

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

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

558 IF YOU WERE NOT BORN BEFORE THIS DATE

559 (insert date and applicable year)

560 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS,  
 561 OR NICOTINE DISPENSING DEVICES.

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

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

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

573 Section 17. Section 569.19, Florida Statutes, is amended  
 574 to read:

575 569.19 Annual report.—The division shall report annually

576 with written findings to the Legislature and the Governor by  
 577 December 31, on the progress of implementing the enforcement  
 578 provisions of this part ~~chapter~~. This must include, but is not  
 579 limited to:

- 580 (1) The number and results of compliance visits.
- 581 (2) The number of violations for failure of a retailer to  
 582 hold a valid license.
- 583 (3) The number of violations for selling tobacco products  
 584 to persons under age 21 ~~18~~, and the results of administrative  
 585 hearings on the above and related issues.
- 586 (4) The number of persons under age 21 ~~18~~ cited for  
 587 violations of s. 569.11 and sanctions imposed as a result of  
 588 citation.

589 Section 18. Section 569.24, Florida Statutes, is created  
 590 to read:

591 569.24 Preemption.—

592 (1) As used in this section, the term "minimum age" means  
 593 the lawful age to purchase or knowingly possess tobacco products  
 594 or nicotine products as set by the state at 21 years of age.

595 (2) The establishment of the minimum age for purchasing or  
 596 possessing tobacco products or nicotine products and the  
 597 regulation of the marketing, sale, or delivery of tobacco  
 598 products or nicotine products is preempted to the state.

599 Section 19. Section 569.31, Florida Statutes, is created  
 600 to read:



601        569.31 Definitions.—As used in this part, the term:  
602        (1) "Any person under the age of 21" does not include any  
603 person under the age of 21 who:  
604        (a) Is in the military reserve or on active duty in the  
605 Armed Forces of the United States; or  
606        (b) Is acting in his or her scope of lawful employment.  
607        (2) "Dealer" has the same meaning as the term "retail  
608 nicotine products dealer" as defined in this section.  
609        (3) "Division" means the Division of Alcoholic Beverages  
610 and Tobacco of the Department of Business and Professional  
611 Regulation.  
612        (4) "Nicotine dispensing device" means any product that  
613 employs an electronic, chemical, or mechanical means to produce  
614 vapor or aerosol from a nicotine product, including, but not  
615 limited to, an electronic cigarette, electronic cigar,  
616 electronic cigarillo, electronic pipe, or other similar device  
617 or product, any replacement cartridge for such device, and any  
618 other container of nicotine in a solution or other form intended  
619 to be used with or within an electronic cigarette, electronic  
620 cigar, electronic cigarillo, electronic pipe, or other similar  
621 device or product.  
622        (5) "Nicotine product" means any product that contains  
623 nicotine, including liquid nicotine, which is intended for human  
624 consumption, whether inhaled, chewed, absorbed, dissolved, or  
625 ingested by any means. The term also includes any nicotine

626 dispensing device. The term does not include a:

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

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

631 (c) Product that contains incidental nicotine.

632 (6) "Permit" has the same meaning as the term "retail  
633 nicotine products dealer permit" as defined in this section.

634 (7) "Retail nicotine products dealer" means the holder of  
635 a retail nicotine products dealer permit.

636 (8) "Retail nicotine products dealer permit" means a  
637 permit issued by the division under s. 569.32.

638 (9) "Self-service merchandising" means the open display of  
639 nicotine products, whether packaged or otherwise, for direct  
640 retail customer access and handling before purchase without the  
641 intervention or assistance of the dealer or the dealer's owner,  
642 employee, or agent. An open display of such products and devices  
643 includes the use of an open display unit.

644 Section 20. Section 569.32, Florida Statutes, is created  
645 to read:

646 569.32 Retail nicotine products dealer permits;  
647 application; qualifications; renewal; duplicates.-

648 (1)(a) Each person, firm, association, or corporation that  
649 seeks to deal, at retail, in nicotine products within the state,  
650 or to allow a nicotine products vending machine to be located on

651 its premises in the state, must obtain a retail nicotine  
652 products dealer permit for each place of business or premises at  
653 which nicotine products are sold. Each dealer owning, leasing,  
654 furnishing, or operating vending machines through which nicotine  
655 products are sold must obtain a permit for each machine and  
656 shall post the permit in a conspicuous place on or near the  
657 machine; however, if the dealer has more than one vending  
658 machine at a single location or if nicotine products are sold  
659 both over the counter and through a vending machine at a single  
660 location, the dealer need obtain only one permit for that  
661 location.

662 (b) Application for a permit must be made on a form  
663 furnished by the division and must set forth the name under  
664 which the applicant transacts or intends to transact business,  
665 the address of the location of the applicant's place of business  
666 within the state, and any other information the division  
667 requires. If the applicant has or intends to have more than one  
668 place of business dealing in nicotine products within the state,  
669 a separate application must be made for each place of business.  
670 If the applicant is a firm or an association, the application  
671 must set forth the names and addresses of the persons  
672 constituting the firm or association; if the applicant is a  
673 corporation, the application must set forth the names and  
674 addresses of the principal officers of the corporation. The  
675 application must also set forth any other information prescribed

676 by the division for the purpose of identifying the applicant  
677 firm, association, or corporation. The application must be  
678 signed and verified by oath or affirmation by the owner, if a  
679 sole proprietor, or, if the owner is a firm, association, or  
680 partnership, by the members or partners thereof, or, if the  
681 owner is a corporation, by an executive officer of the  
682 corporation or by a person authorized by the corporation to sign  
683 the application, together with the written evidence of this  
684 authority.

685 (2) (a) Permits may be issued only to persons who are 18  
686 years of age or older or to corporations the officers of which  
687 are 18 years of age or older.

688 (b) The division may refuse to issue a permit to any  
689 person, firm, association, or corporation the permit of which  
690 has been revoked, to any corporation an officer of which has had  
691 his or her permit revoked, or to any person who is or has been  
692 an officer of a corporation the permit of which has been  
693 revoked. Any permit issued to a firm, association, or  
694 corporation prohibited from obtaining a permit under this part  
695 shall be revoked by the division.

696 (3) Upon approval of an application for a permit, the  
697 division shall issue to the applicant a permit for the place of  
698 business or premises specified in the application. A permit is  
699 not assignable and is valid only for the person in whose name  
700 the permit is issued and for the place designated in the permit.

701 The permit shall be conspicuously displayed at all times at the  
702 place for which it is issued.

703 Section 21. Section 569.33 Florida Statutes, is created to  
704 read:

705 569.33 Consent to inspection and search without warrant.-  
706 An applicant for a retail nicotine products dealer permit, by  
707 accepting the permit when issued, agrees that the place or  
708 premises covered by the permit is subject to inspection and  
709 search without a search warrant by the division or its  
710 authorized assistants, and by sheriffs, deputy sheriffs, or  
711 police officers, to determine compliance with this part.

712 Section 22. Section 569.34, Florida Statutes, is created  
713 to read:

714 569.34 Operating without a retail nicotine products dealer  
715 permit; penalty.-

716 (1) It is unlawful for a person, firm, association, or  
717 corporation to deal, at retail, in nicotine products, in any  
718 manner, or to allow a nicotine products vending machine to be  
719 located on its premises, without having a retail nicotine  
720 products dealer permit as required by s. 569.32. A person who  
721 violates this section commits a noncriminal violation,  
722 punishable by a fine of not more than \$500.

723 (2) A retail tobacco products dealer, as defined in s.  
724 569.002, is not required to have a separate or additional retail  
725 nicotine products dealer permit to deal, at retail, in nicotine

726 products within the state, or allow a nicotine products vending  
727 machine to be located on its premises in the state. Any retail  
728 tobacco products dealer that deals, at retail, in nicotine  
729 products or allows a nicotine products vending machine to be  
730 located on its premises in the state is subject to, and must be  
731 in compliance with, this part.

732 (3) Any person who violates this section shall be cited  
733 for such infraction and shall be cited to appear before the  
734 county court. The citation may indicate the time, date, and  
735 location of the scheduled hearing and must indicate that the  
736 penalty for a noncriminal violation is a fine of not more than  
737 \$500.

738 (a) A person cited for an infraction under this section  
739 may:

- 740 1. Post a \$500 bond; or  
741 2. Sign and accept the citation indicating a promise to  
742 appear.

743 (b) A person cited for a violation of this section may:

- 744 1. Pay the fine, either by mail or in person, within 10  
745 days after receiving the citation; or  
746 2. If the person has posted bond, forfeit the bond by not  
747 appearing at the scheduled hearing.

748 (c) If the person pays the fine or forfeits the bond, the  
749 person is deemed to have admitted to a violation of this section  
750 and to have waived the right to a hearing on the issue of

751 commission of the violation. Such admission may not be used as  
752 evidence in any other proceeding.

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

758 (e) If a person is found by the court to have committed  
759 the infraction, that person may appeal that finding to the  
760 circuit court.

761 Section 23. Section 569.35, Florida Statutes, is created  
762 to read:

763 569.35 Retail nicotine product dealers; administrative  
764 penalties.—The division may suspend or revoke the permit of a  
765 dealer, including the retail tobacco products dealer permit of a  
766 retail tobacco products dealer as defined in s. 569.002, upon  
767 sufficient cause appearing of the violation of any of the  
768 provisions of this part by a dealer or by a dealer's agent or  
769 employee. The division may also assess and accept an  
770 administrative fine of up to \$1,000 against a dealer for each  
771 violation. The division shall deposit all fines collected into  
772 the General Revenue Fund as collected. An order imposing an  
773 administrative fine becomes effective 15 days after the date of  
774 the order. The division may suspend the imposition of a penalty  
775 against a dealer, conditioned upon the dealer's compliance with

776 terms the division considers appropriate.

777 Section 24. Section 569.37, Florida Statutes, is created  
778 to read:

779 569.37 Sale or delivery of nicotine products;  
780 restrictions.—

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

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

786 (b) Sales from a vending machine are prohibited under  
787 paragraph (a) and are only permissible from a machine that is  
788 equipped with an operational lockout device which is under the  
789 control of the dealer or the dealer's agent or employee who  
790 directly regulates the sale of items through the machine by  
791 triggering the lockout device to allow the dispensing of one  
792 nicotine product. The lockout device must include a mechanism to  
793 prevent the machine from functioning if the power source for the  
794 lockout device fails or if the lockout device is disabled, and a  
795 mechanism to ensure that only one nicotine product is dispensed  
796 at a time.

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

800 (b) A dealer that sells nicotine products may not place



801 such products or devices in an open display unit unless the unit  
802 is located in an area that is inaccessible to customers.

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

806 (4) A dealer or a dealer's agent or employee must require  
807 proof of age of a purchaser of a nicotine product before selling  
808 the product to that person, unless the purchaser appears to be  
809 30 years of age or older.

810 Section 25. Section 569.38, Florida Statutes, is created  
811 to read:

812 569.38 Gift of sample nicotine products.—The gift of  
813 sample nicotine products to any person under the age of 21 by an  
814 entity permitted under this part, or by an employee of such  
815 entity, is prohibited and is punishable as provided in s.  
816 569.41.

817 Section 26. Section 569.381, Florida Statutes, is created  
818 to read:

819 569.381 Responsible retail nicotine products dealers;  
820 qualifications; mitigation of disciplinary penalties; diligent  
821 management and supervision; presumption.—

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

826 (2) To qualify as a responsible retail nicotine products  
827 dealer, the dealer must establish and implement procedures  
828 designed to ensure that the dealer's employees comply with this  
829 part. The dealer must provide a training program for the  
830 dealer's employees which addresses the use and sale of nicotine  
831 products and which includes at least the following topics:

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

833 (b) Methods of recognizing and handling customers under 21  
834 years of age.

835 (c) Procedures for proper examination of identification  
836 cards in order to verify that customers are not under 21 years  
837 of age.

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

840 (3) In determining penalties under s. 569.35, the division  
841 may mitigate penalties imposed against a dealer because of an  
842 employee's illegal sale of a nicotine product to a person under  
843 21 years of age if the following conditions are met:

844 (a) The dealer is qualified as a responsible dealer under  
845 this section.

846 (b) The dealer provided the training program required  
847 under subsection (2) to that employee before the illegal sale  
848 occurred.

849 (c) The dealer had no knowledge of that employee's  
850 violation at the time of the violation and did not direct,

851 approve, or participate in the violation.

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

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

858 (5) Dealers shall exercise diligence in the management and  
859 supervision of their premises and in the supervision and  
860 training of their employees, agents, or servants. In proceedings  
861 to impose penalties under s. 569.35, proof that employees,  
862 agents, or servants of the dealer, while in the scope of their  
863 employment, committed at least three violations of s. 569.41  
864 during a 180-day period shall be prima facie evidence of a lack  
865 of due diligence by the dealer in the management and supervision  
866 of his or her premises and in the supervision and training of  
867 employees, agents, officers, or servants.

868 (6) The division may consider qualification as a  
869 responsible retail nicotine products dealer under this section  
870 as evidence that the dealer properly exercised the diligence  
871 required under this section.

872 Section 27. Section 569.39, Florida Statutes, is created  
873 to read:

874 569.39 Rulemaking authority.—The division shall adopt  
875 rules to administer and enforce this part.

876 Section 28. Section 569.41, Florida Statutes, is created  
 877 to read:

878 569.41 Selling, delivering, bartering, furnishing, or  
 879 giving nicotine products to persons under 21 years of age;  
 880 criminal penalties; defense.-

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

884 (2) Any person who violates subsection (1) commits a  
 885 misdemeanor of the second degree, punishable as provided in s.  
 886 775.082 or s. 775.083. However, any person who violates  
 887 subsection (1) for a second or subsequent time within 1 year  
 888 after the first violation commits a misdemeanor of the first  
 889 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

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

898 (c) Such person carefully checked a driver license or an  
 899 identification card issued by the state or another state of the  
 900 United States, a passport, or a United States Armed Services

901 identification card presented by the buyer or recipient and  
902 acted in good faith and in reliance upon the representation and  
903 appearance of the buyer or recipient in the belief that the  
904 buyer or recipient was 21 years of age or older.

905 Section 29. Section 569.42, Florida Statutes, is created  
906 to read:

907 569.42 Possession, misrepresenting age or military service  
908 to purchase, and purchase of nicotine products by persons under  
909 21 years of age prohibited; penalties; jurisdiction; disposition  
910 of fines.—

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

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

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

921  
922 Any second or subsequent violation not within the 12-week period  
923 after the first violation is punishable as provided for a first  
924 violation.

925 (2) It is unlawful for any person under 21 years of age to

926 misrepresent his or her age or military service for the purpose  
927 of inducing a dealer or an agent or employee of the dealer to  
928 sell, give, barter, furnish, or deliver any nicotine product, or  
929 to purchase, or attempt to purchase, any nicotine product from a  
930 person or a vending machine. Any person under 21 years of age  
931 who violates this subsection commits a noncriminal violation as  
932 defined in s. 775.08(3), punishable by:

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

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

939  
940 Any second or subsequent violation not within the 12-week period  
941 after the first violation is punishable as provided for a first  
942 violation.

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

951 mandatory, within 30 days after the date of the hearing.

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

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

971 (b) If a person under 21 years of age is found by the  
972 court to have committed a noncriminal violation under this  
973 section and that person has failed to pay the applicable fine as  
974 required by paragraph (1) (b) or paragraph (2) (b), the court may  
975 direct the Department of Highway Safety and Motor Vehicles to

976 withhold issuance of or suspend the driver license or driving  
 977 privilege of that person for a period of 45 consecutive days.

978 (6) Eighty percent of all civil penalties received by a  
 979 county court under this section shall be remitted by the clerk  
 980 of the court to the Department of Revenue for transfer to the  
 981 Department of Education to provide for teacher training and for  
 982 research and evaluation to reduce and prevent the use of  
 983 nicotine products by children. The remaining 20 percent of civil  
 984 penalties received by a county court under this section shall  
 985 remain with the clerk of the county court to cover  
 986 administrative costs.

987 Section 30. Section 569.43, Florida Statutes, is created  
 988 to read:

989 569.43 Posting of a sign stating that the sale of nicotine  
 990 products or nicotine dispensing devices to persons under 21  
 991 years of age is unlawful; enforcement; penalty.-

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

995  
 996 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING  
 997 DEVICES TO PERSONS UNDER THE AGE OF 21 IS AGAINST  
 998 FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

999  
 1000 (2) The division shall make available to dealers of



1001 nicotine products signs that meet the requirements of subsection  
 1002 (1).

1003 (3) Any dealer that sells nicotine products shall provide  
 1004 at the checkout counter in a location clearly visible to the  
 1005 dealer or the dealer's agent or employee instructional material  
 1006 in a calendar format or similar format to assist in determining  
 1007 whether a person is of legal age to purchase nicotine products.  
 1008 This point of sale material must contain substantially the  
 1009 following language:

1010  
 1011 IF YOU WERE NOT BORN BEFORE THIS DATE

1012 (insert date and applicable year)

1013 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR NICOTINE  
 1014 DISPENSING DEVICES.

1015  
 1016 Upon approval by the division, in lieu of a calendar a dealer  
 1017 may use card readers, scanners, or other electronic or automated  
 1018 systems that can verify whether a person is of legal age to  
 1019 purchase nicotine products. Failure to comply with the  
 1020 provisions contained in this subsection shall result in  
 1021 imposition of administrative penalties as provided in s. 569.35.

1022 (4) The division, through its agents and inspectors, shall  
 1023 enforce this section.

1024 (5) Any person who fails to comply with subsection (1)  
 1025 commits a misdemeanor of the second degree, punishable as

1026 provided in s. 775.082 or s. 775.083.

1027 Section 31. Section 569.44, Florida Statutes, is created  
1028 to read:

1029 569.44 Annual report.—The division shall report annually  
1030 with written findings to the Legislature and the Governor by  
1031 December 31 on the progress of implementing the enforcement  
1032 provisions of this part. The report must include, but is not  
1033 limited to:

1034 (1) The number and results of compliance visits.

1035 (2) The number of violations for failure of a retailer to  
1036 hold a valid permit.

1037 (3) The number of violations for selling nicotine products  
1038 to persons under age 21, and the results of administrative  
1039 hearings on the above and related issues.

1040 (4) The number of persons under age 21 cited for  
1041 violations of s. 569.42 and sanctions imposed as a result of  
1042 citation.

1043 Section 32. Section 569.45, Florida Statutes, is created  
1044 to read:

1045 569.45 Mail order, Internet, and remote sales of nicotine  
1046 products; age verification.—

1047 (1) For purposes of this section, the term:

1048 (a) "Consumer" means a person in the state who comes into  
1049 possession of any nicotine product who, at the time of  
1050 possession, is not intending to sell or distribute the nicotine

1051 product, or is not a retailer.

1052 (b) "Delivery sale" means any sale of nicotine products to  
1053 a consumer in the state for which:

1054 1. The consumer submits the order for the sale by  
1055 telephonic or other voice transmission, mail, delivery service,  
1056 or the Internet or other online service; or

1057 2. The nicotine products are delivered by use of mail or a  
1058 delivery service.

1059 (c) "Delivery service" means any person engaged in the  
1060 commercial delivery of letters, packages, or other containers.

1061 (d) "Legal minimum purchase age" means the minimum age at  
1062 which an individual may legally purchase nicotine products in  
1063 the state.

1064 (e) "Retailer" means any person who is required to obtain  
1065 a retail nicotine products dealer permit or a retail tobacco  
1066 products dealer permit, as those terms are defined in s.  
1067 569.002.

1068 (f) "Shipping container" means a container in which  
1069 nicotine products are shipped in connection with a delivery  
1070 sale.

1071 (g) "Shipping document" means a bill of lading, airbill,  
1072 United States Postal Service form, or any other document used to  
1073 verify the undertaking by a delivery service to deliver letters,  
1074 packages, or other containers.

1075 (2) (a) A sale of nicotine products constituting a delivery

1076 sale as defined in paragraph (1) (b) is a delivery sale  
1077 regardless of whether the person accepting the order for the  
1078 delivery sale is located inside or outside the state.

1079 (b) A retailer must obtain a retail nicotine products  
1080 dealer permit or a retail tobacco products dealer permit, as  
1081 those terms are defined in s. 569.002, from the division under  
1082 the requirements of this chapter before accepting an order for a  
1083 delivery sale.

1084 (c) A person may not make a delivery sale of nicotine  
1085 products to any individual who is not 21 years of age or older.

1086 (d) Each person accepting an order for a delivery sale  
1087 must comply with each of the following:

1088 1. The age verification requirements set forth in  
1089 subsection (3).

1090 2. The disclosure requirements set forth in subsection  
1091 (4).

1092 3. The shipping requirements set forth in subsection (5).

1093 (3) A person may not mail, ship, or otherwise deliver  
1094 nicotine products in connection with an order for a delivery  
1095 sale unless, before the first delivery to the consumer, the  
1096 person accepting the order for the delivery sale:

1097 (a) Obtains from the person submitting the order a  
1098 certification that includes:

1099 1. Reliable confirmation that the person is 21 years of  
1100 age or older; and

1101        2. A statement signed by the person in writing and under  
1102 penalty of perjury which:  
1103        a. Certifies the address and date of birth of the person;  
1104 and  
1105        b. Confirms that the person wants to receive delivery  
1106 sales from a nicotine products company and understands that,  
1107 under the laws of the state, the following actions are illegal:  
1108        (I) Signing another person's name to the certification;  
1109        (II) Selling nicotine products to individuals who are not  
1110 21 years of age or older; and  
1111        (III) Purchasing nicotine products, if the person making  
1112 the purchase is not 21 years of age or older.  
1113        (b) Makes a good faith effort to verify the information  
1114 contained in the certification provided by the individual under  
1115 paragraph (a) against a commercially available database that may  
1116 be reasonably relied upon for accurate age information or  
1117 obtains a photocopy or other image of a valid government-issued  
1118 identification card stating the date of birth or age of the  
1119 individual.  
1120        (c) Provides to the individual, via electronic mail or  
1121 other means, a notice meeting the requirements of subsection  
1122 (4).  
1123        (d) If an order for nicotine products is made pursuant to  
1124 an advertisement on the Internet, receives payment for the  
1125 delivery sale from the consumer by a credit or debit card issued

1126 in the name of the consumer, or by personal or company check of  
1127 the consumer.

1128 (e) Submits, to each credit card acquiring company with  
1129 which the person has credit card sales, identification  
1130 information in an appropriate form and format so that the words  
1131 "nicotine product" may be printed in the purchaser's credit card  
1132 statement when a purchase of a nicotine product is made by  
1133 credit card payment.

1134 (f) Makes a telephone call after 5 p.m. to the purchaser  
1135 confirming the order before shipping the nicotine products. The  
1136 telephone call may be a person-to-person call or a recorded  
1137 message. The person accepting the order for delivery sale is not  
1138 required to speak directly with a person and may leave a message  
1139 on an answering machine or through voice mail.

1140  
1141 In addition to the requirements of this subsection, a person  
1142 accepting an order for a delivery sale may request that a  
1143 consumer provide an electronic mail address.

1144 (4) The notice described in paragraph (3)(c) must include  
1145 prominent and clearly legible statements that sales of nicotine  
1146 products are:

1147 (a) Illegal if made to individuals who are not 21 years of  
1148 age or older.

1149 (b) Restricted to those individuals who provide verifiable  
1150 proof of age in accordance with subsection (3).

1151 (5) Each person who mails, ships, or otherwise delivers  
1152 nicotine products in connection with an order for a delivery  
1153 sale must:

1154 (a) Include as part of the shipping documents, in a clear  
1155 and conspicuous manner, the following statement: "Nicotine  
1156 Products: Florida law prohibits shipping to individuals under 21  
1157 years of age."

1158 (b) Use a method of mailing, shipping, or delivery which  
1159 obligates the delivery service to require:

1160 1. The individual submitting the order for the delivery  
1161 sale or another person 21 years of age or older who resides at  
1162 the individual's address to sign his or her name to accept  
1163 delivery of the shipping container. Proof of the legal minimum  
1164 purchase age of the individual accepting delivery is required  
1165 only if the individual appears to be under 30 years of age.

1166 2. Proof that the individual is either the addressee or  
1167 the individual who is 21 years of age or older designated by the  
1168 addressee, in the form of a valid, government-issued  
1169 identification card bearing a photograph of the individual who  
1170 signs to accept delivery of the shipping container.

1171  
1172 If the person accepting a purchase order for a delivery sale  
1173 delivers the nicotine products without using a delivery service,  
1174 the person must comply with all of the requirements of this  
1175 section which apply to a delivery service. Any failure to comply

1176 with a requirement of this section constitutes a violation of  
1177 this section.

1178 (6) This section does not apply to delivery sales of  
1179 nicotine products to a retail nicotine products dealer or a  
1180 retail tobacco products dealer, as those terms are defined in s.  
1181 569.002.

1182 (7) An individual 21 years of age or older who knowingly  
1183 violates any provision of this section commits a misdemeanor of  
1184 the second degree, punishable as provided in s. 775.082 or s.  
1185 775.083.

1186 (8) The Attorney General, the Attorney General's designee,  
1187 or a state attorney may bring an action in the appropriate court  
1188 in the state to prevent or restrain violations of this section  
1189 by any person.

1190 Section 33. Section 877.112, Florida Statutes, is  
1191 repealed.

1192 Section 34. This act shall take effect December 1, 2021.