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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2024	.	
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The Committee on Regulated Industries (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 569.31, Florida Statutes, is reordered
and amended to read:

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

(2)~~(1)~~ "Dealer" is synonymous with the term "retail
nicotine products dealer."

(3)~~(2)~~ "Division" means the Division of Alcoholic Beverages



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11 and Tobacco of the Department of Business and Professional
12 Regulation.

13 (4) "FDA" means the United States Food and Drug
14 Administration.

15 (5)~~(3)~~ "Nicotine dispensing device" means any product that
16 employs an electronic, chemical, or mechanical means to produce
17 vapor or aerosol from a nicotine product, including, but not
18 limited to, an electronic cigarette, electronic cigar,
19 electronic cigarillo, electronic pipe, or other similar device
20 or product, any replacement cartridge for such device, and any
21 other container of nicotine in a solution or other form intended
22 to be used with or within an electronic cigarette, electronic
23 cigar, electronic cigarillo, electronic pipe, or other similar
24 device or product. For purposes of this definition, each
25 individual stock keeping unit is considered a separate nicotine
26 dispensing device.

27 (6)~~(4)~~ "Nicotine product" means any product that contains
28 nicotine, including liquid nicotine, which is intended for human
29 consumption, whether inhaled, chewed, absorbed, dissolved, or
30 ingested by any means. The term also includes any nicotine
31 dispensing device. The term does not include a:

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

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

36 (c) Product that contains incidental nicotine.

37 (7) "Nicotine product manufacturer" means any person that
38 manufactures nicotine products.

39 (8)~~(5)~~ "Permit" is synonymous with the term "retail



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40 nicotine products dealer permit.”

41 (9)~~(6)~~ “Retail nicotine products dealer” means the holder
42 of a retail nicotine products dealer permit.

43 (10)~~(7)~~ “Retail nicotine products dealer permit” means a
44 permit issued by the division under s. 569.32.

45 (11)~~(8)~~ “Self-service merchandising” means the open display
46 of nicotine products, whether packaged or otherwise, for direct
47 retail customer access and handling before purchase without the
48 intervention or assistance of the dealer or the dealer’s owner,
49 employee, or agent. An open display of such products and devices
50 includes the use of an open display unit.

51 (12) “Sell” or “sale” means in addition to its common usage
52 meaning, any sale, transfer, exchange, theft, barter, gift, or
53 offer for sale and distribution, in any manner or by any means
54 whatsoever.

55 (13) “Timely filed premarket tobacco product application”
56 means an application pursuant to 21 U.S.C. s. 387j for a
57 nicotine dispensing device containing nicotine derived from
58 tobacco marketed in the United States as of August 8, 2016, that
59 was submitted to the FDA on or before September 9, 2020, and
60 accepted for filing.

61 (14) “Wholesale nicotine products dealer” means the holder
62 of a wholesale nicotine products dealer permit who purchases
63 nicotine dispensing devices or nicotine products from any
64 nicotine product manufacturer.

65 (15) “Wholesale nicotine products dealer permit” means a
66 permit issued by the division under s. 569.316.

67 (1)~~(9)~~ “Any person under the age of 21” does not include
68 any person under the age of 21 who:



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

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

72 Section 2. Section 569.311, Florida Statutes, is created to
73 read:

74 569.311 Nicotine dispensing device directory.—

75 (1) By December 1, 2024, and annually thereafter, every
76 nicotine product manufacturer that sells nicotine dispensing
77 devices to any person for eventual retail sale in this state
78 shall execute and deliver a form, prescribed by the division,
79 under penalty of perjury for each such nicotine dispensing
80 device sold that meets either of the following criteria:

81 (a) The manufacturer of a nicotine dispensing device has
82 submitted a timely filed premarket tobacco product application
83 for the nicotine dispensing device pursuant to 21 U.S.C. s. 387j
84 to the FDA, and the application either remains under review by
85 the FDA, or has received a marketing denial order that has been
86 and remains stayed by the FDA or court order, rescinded by the
87 FDA, or vacated by a court; or

88 (b) The nicotine product manufacturer has received a
89 marketing granted order under 21 U.S.C. s. 387j for the nicotine
90 dispensing device from the FDA.

91 (2) The form prescribed by the division pursuant to
92 subsection (1) must require each nicotine product manufacturer
93 to set forth the name under which the nicotine product
94 manufacturer transacts or intends to transact business, the
95 address of the location of the nicotine product manufacturer's
96 principal place of business, the nicotine product manufacturer's
97 e-mail address, and the brand name of the nicotine dispensing



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98 device, the device's category (e.g., e-liquid, power unit,
99 device, e-liquid cartridge, e-liquid pod, disposable), the
100 device's name, and any flavor utilized with the device that is
101 sold in this state. The division may allow a nicotine product
102 manufacturer to group its nicotine dispensing devices on its
103 certification.

104 (3) In addition to completing the form prescribed by the
105 division pursuant to subsection (1), each nicotine product
106 manufacturer shall provide a copy of the cover page of the
107 granted marketing order issued by the FDA pursuant to 21 U.S.C.
108 s. 387j for each device; a copy of the acceptance letter issued
109 by the FDA pursuant to 21 U.S.C. s. 387j for a timely filed
110 premarket tobacco product application for each device; or a
111 document issued by the FDA or by a court confirming that the
112 premarket tobacco product application has been received and
113 denied, but the order is not yet in effect for each device.

114 (4) Any nicotine product manufacturer submitting a
115 certification pursuant to subsection (1) shall notify the
116 division within 30 days after any material change to the
117 certification, including, but not limited to, issuance by the
118 FDA of any of the following:

119 (a) A denial of a market authorization pursuant to 21
120 U.S.C. s. 387j;

121 (b) An order requiring a nicotine product manufacturer to
122 remove a nicotine dispensing device or nicotine product from the
123 market either temporarily or permanently;

124 (c) Any notice of action taken by the FDA affecting the
125 ability of the nicotine dispensing device to be introduced or
126 delivered in this state for commercial distribution;



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127 (d) Any change in policy which results in a nicotine
128 dispensing device becoming an FDA enforcement priority; or

129 (e) Any other change deemed material by the division
130 pursuant to a rule of the division.

131 (5) The division shall develop and maintain a directory
132 listing all nicotine product manufacturers that sell nicotine
133 dispensing devices in this state and the nicotine dispensing
134 devices certified by those manufacturers with the division which
135 comply with this section. The division shall make the directory
136 available January 1, 2025, on its or the Department of Business
137 and Professional Regulation's website. The division shall update
138 the directory as necessary. The division shall establish a
139 process to provide retailers, distributors, and wholesalers
140 notice of the initial publication of the directory and changes
141 made to the directory in the prior month.

142 (6) The division shall establish by rule a process to
143 provide a nicotine product manufacturer notice and an
144 opportunity to cure deficiencies before removing the
145 manufacturer or any of its nicotine dispensing devices from the
146 directory.

147 (a) The division may not remove the nicotine product
148 manufacturer or any of its nicotine dispensing devices from the
149 directory until at least 30 days after the nicotine product
150 manufacturer has been given notice of an intended action. Notice
151 is sufficient and deemed immediately received by a nicotine
152 product manufacturer if the notice is sent either electronically
153 or by facsimile to an e-mail address or facsimile number
154 provided by the nicotine product manufacturer in its most recent
155 certification filed under subsection (1).



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156 (b) The nicotine product manufacturer has 15 days from the
157 date of service of the notice of the division's intended action
158 to establish that the nicotine product manufacturer or any of
159 its nicotine dispensing devices should be included on the
160 directory.

161 (c) A determination by the division not to include or to
162 remove from the directory a nicotine product manufacturer or
163 nicotine dispensing device is subject to review under chapter
164 120. If a nicotine product manufacturer seeks review of removal
165 from the directory, the division must keep the nicotine
166 dispensing device on the directory until conclusion of the
167 hearing.

168 (d) If a nicotine dispensing device is removed from the
169 directory, each retailer and each wholesaler holding nicotine
170 dispensing devices for eventual sale to a consumer in this state
171 has 30 days from the day such product is removed from the
172 directory to sell the product or remove the product from its
173 inventory. After 30 days following removal from the directory,
174 the product identified in the notice of removal is contraband
175 and subject to s. 569.345.

176 (7) (a) Except as provided in subsections (b) and (c),
177 beginning March 1, 2025, or on the date that the division first
178 makes the directory available for public inspection on its or
179 the Department of Business and Professional Regulation's
180 website, whichever is later, a nicotine product manufacturer
181 that offers for sale in this state a nicotine dispensing device
182 not listed on the directory is subject to a fine of \$1,000 per
183 day for each individual nicotine dispensing device offered for
184 sale in violation of this section until the offending product is



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185 removed from the market or until the offending product is
186 properly listed on the directory.

187 (b) Each retailer shall have 60 days from the date that the
188 division first makes the directory available for inspection on
189 its public website to sell products that were in its inventory
190 and not included on the directory or remove those products from
191 inventory.

192 (c) Each distributor or wholesaler shall have 60 days from
193 the date that the division first makes the directory available
194 for inspection on its public website to remove from inventory
195 those products intended for eventual retail sale to a consumer
196 in this state.

197 (8) A nicotine product manufacturer that falsely represents
198 any of the information required by subsection (1) or subsection
199 (2) commits a felony of the third degree for each false
200 representation, punishable as provided in s. 775.082 or s.
201 775.083.

202 (9) Each retail nicotine products dealer and wholesale
203 nicotine products dealer is subject to unannounced inspections
204 or audit checks by the division for purposes of enforcing this
205 section. The division shall conduct unannounced follow-up
206 compliance checks of all noncompliant retail nicotine products
207 dealers or wholesale nicotine products dealers within 30 days
208 after any violation of this section. The division shall publish
209 the results of all inspections or audits at least annually and
210 shall make the results available to the public on request.

211 (10) The division may establish by rule a procedure to
212 allow nicotine product manufacturers to renew certifications
213 without having to resubmit all the information required by this



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214 section.

215 (11) The failure of a nicotine product manufacturer to
216 provide information or documents required by this section may
217 result in a nicotine dispensing device not being included on the
218 directory or the removal of a nicotine dispensing device from
219 the directory. The division may assess an administrative fine of
220 up to \$1,000 for each nicotine dispensing device offered for
221 sale in this state if a nicotine product manufacturer fails to
222 provide notice to the division of a material change to its
223 certification within 30 days after that material change. The
224 division shall deposit all fines collected into the General
225 Revenue Fund. An order imposing an administrative fine becomes
226 effective 15 days after the date of the order.

227 Section 3. Section 569.312, Florida Statutes, is created to
228 read:

229 569.312 Maintenance and inspection of nicotine dispensing
230 device records.—

231 (1) Each nicotine product manufacturer that sells nicotine
232 dispensing devices in this state shall maintain and keep for a
233 period of 3 years, at the address listed on the certification
234 required pursuant to s. 569.311, a complete and accurate record
235 of the number of nicotine dispensing devices sold or delivered
236 to a wholesaler in this state and to whom each nicotine
237 dispensing device was sold on a wholesale basis, including the
238 business name, license number, shipping and business addresses,
239 e-mail address, and telephone number for the person or entity to
240 which each product was sold. Such records may be kept in an
241 electronic or paper format.

242 (2) Each retail nicotine products dealer; wholesale



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243 nicotine product dealer; wholesale dealer, as defined in s.
244 210.01(6); and distributing agent, as defined in s. 210.01(14),
245 shall maintain and keep for a period of 3 years at its principal
246 place of business a complete and accurate record of the quantity
247 of each nicotine dispensing device received, delivered, or sold
248 in this state and to whom each nicotine dispensing device was
249 sold or delivered or from whom the business received each
250 nicotine dispensing device, including the business name, license
251 number, shipping and business addresses, e-mail address, and
252 telephone number for the person or entity to which each product
253 was sold or delivered or from which each product was received.

254 Such records may be kept in an electronic or paper format.

255 (3) Nicotine product manufacturers that sell nicotine
256 dispensing devices in this state; retail nicotine products
257 dealers; wholesale nicotine products dealers; wholesale dealers,
258 as defined in s. 210.01(6); and distributing agents, as defined
259 in s. 210.01(14), who sell or deliver nicotine dispensing
260 devices directly to consumers are not required to keep and
261 maintain the name, address, e-mail address, and telephone number
262 of consumers who purchase or receive nicotine dispensing
263 devices.

264 (4) Within 7 calendar days after receiving a request by the
265 division, a nicotine product manufacturer that sells nicotine
266 dispensing devices in this state, including a manufacturer
267 selling nicotine dispensing devices directly to consumers; a
268 retail nicotine products dealer; a wholesale nicotine products
269 dealer; a wholesale dealer, as defined in s. 210.01(6); and a
270 distributing agent, as defined in s. 210.01(14), shall provide
271 to the division or its duly authorized representative copies of



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272 records related to the nicotine dispensing devices received,
273 delivered, or sold in this state and to whom those nicotine
274 dispensing devices were sold or delivered or from whom they were
275 received.

276 (5) The division, or a designated employee thereof, may
277 examine the records required to be maintained by each nicotine
278 product manufacturer, retail nicotine products dealer, wholesale
279 nicotine products dealer, wholesale dealer, as defined in s.
280 210.01(6), and distributing agent, as defined in s. 210.01(14);
281 issue subpoenas to such persons or entities; administer oaths;
282 and take depositions of witnesses within or outside of this
283 state. The civil law of this state regarding enforcing obedience
284 to a subpoena lawfully issued by a judge or other person duly
285 authorized to issue subpoenas under the laws of this state in
286 civil cases applies to a subpoena issued by the division, or any
287 designated employee thereof. The subpoena may be enforced by
288 writ of attachment issued by the division, or any designated
289 employee, for such witness to compel him or her to appear before
290 the division, or any designated employee, and give his or her
291 testimony and to bring and produce such records as may be
292 required for examination. The division, or any designated
293 employee, may bring an action against a witness who refuses to
294 appear or give testimony by citation before the circuit court,
295 which shall punish such witness for contempt as in cases of
296 refusal to obey the orders and process of the circuit court. The
297 division may in such cases pay such attendance and mileage fees
298 as are permitted to be paid to witnesses in civil cases
299 appearing before the circuit court.

300 (6) The division may assess an administrative fine of up to



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301 \$1,000 for each violation of this section. The division shall
302 deposit all fines collected into the General Revenue Fund. An
303 order imposing an administrative fine becomes effective 15 days
304 after the date of the order.

305 Section 4. Section 569.313, Florida Statutes, is created to
306 read:

307 569.313 Shipment of unregistered nicotine dispensing
308 devices sold for retail sale in this state.—

309 (1) A nicotine product manufacturer may not sell, ship, or
310 otherwise distribute a nicotine dispensing device in this state
311 for eventual retail sale to a consumer in this state for which:

312 (a) The FDA has entered an order requiring the nicotine
313 product manufacturer to remove the product from the market
314 either temporarily or permanently, which order has not been
315 stayed by the FDA or a court of competent jurisdiction;

316 (b) The nicotine product manufacturer has not submitted a
317 timely filed premarket tobacco product application for a
318 nicotine dispensing device that remains pending with the FDA; or

319 (c) The nicotine product manufacturer has not submitted the
320 certification required under this chapter for any of the
321 nicotine dispensing devices intended for eventual retail sale to
322 a consumer in this state.

323 (2) Any person who knowingly ships or receives nicotine
324 dispensing devices in violation of this section commits a
325 misdemeanor of the first degree, punishable as provided in s.
326 775.082 or s. 775.083.

327 (3) The division may also assess an administrative fine of
328 up to \$5,000 for each violation. The division shall deposit all
329 fines collected into the General Revenue Fund. An order imposing



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330 an administrative fine becomes effective 15 days after the date
331 of the order.

332 Section 5. Section 569.316, Florida Statutes, is created to
333 read:

334 569.316 Wholesale nicotine products dealer permits;
335 application; qualifications; renewal; duplicates.-

336 (1) (a) Each person, firm, association, or corporation that
337 seeks to deal, at wholesale, in nicotine products that will be
338 sold at retail within this state, or to sell nicotine products
339 or nicotine dispensing devices to any retail nicotine products
340 dealer who intends to sell those nicotine products in this
341 state, must obtain a wholesale nicotine products dealer permit
342 for each place of business or premises at which nicotine
343 products are sold.

344 (b) Application for a wholesale nicotine products dealer
345 permit must be made on a form furnished by the division and must
346 set forth the name under which the applicant transacts or
347 intends to transact business, the address of the location of the
348 applicant's place of business, the applicant's e-mail address,
349 and any other information the division requires. If the
350 applicant has or intends to have more than one place of business
351 dealing in nicotine products or nicotine dispensing devices, a
352 separate application must be made for each place of business. If
353 the applicant is a firm or an association, the application must
354 set forth the names, e-mail addresses, and addresses of the
355 persons constituting the firm or association. If the applicant
356 is a corporation, the application must set forth the names, e-
357 mail addresses, and addresses of the principal officers of the
358 corporation. The application must also set forth any other



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359 information prescribed by the division for the purpose of
360 identifying the applicant firm, association, or corporation. The
361 application must be signed and verified by oath or affirmation
362 by the owner, if a sole proprietor; if the owner is a firm,
363 association, or partnership, by the members or partners thereof;
364 or, if the owner is a corporation, by an executive officer of
365 the corporation or by a person authorized by the corporation to
366 sign the application, together with the written evidence of this
367 authority.

368 (2) (a) Wholesale nicotine products dealer permits may be
369 issued only to persons who are 21 years of age or older or to
370 corporations the officers of which are 21 years of age or older.

371 (b) The division may refuse to issue a wholesale nicotine
372 products dealer permit to any person, firm, association, or
373 corporation whose permit has been revoked by any jurisdiction;
374 to any corporation an officer of which has had such permit
375 revoked by any jurisdiction; or to any person who is or has been
376 an officer of a corporation whose permit has been revoked by any
377 jurisdiction. The division must revoke any wholesale nicotine
378 products dealer permit issued to a firm, an association, or a
379 corporation prohibited from obtaining such permit under this
380 chapter.

381 (3) Upon approval of an application for a wholesale
382 nicotine products dealer permit, the division shall issue to the
383 applicant a wholesale nicotine products dealer permit for the
384 place of business or premises specified in the application. A
385 wholesale nicotine products dealer permit is not assignable and
386 is valid only for the person in whose name the wholesale
387 nicotine products dealer permit is issued and for the place



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388 designated in the wholesale nicotine products dealer permit. The
389 wholesale nicotine products dealer permit must be conspicuously
390 displayed at all times at the place for which it is issued.

391 (4) A wholesale dealer, as defined in s. 210.01(6), or a
392 distributing agent, as defined in s. 210.01(14), is not required
393 to have a separate or additional wholesale nicotine products
394 dealer permit to deal, at wholesale, in nicotine dispensing
395 devices within this state. A wholesale dealer, as defined in s.
396 210.01(6), a distributing agent, as defined in s. 210.01(14), or
397 a tobacco products distributor, as defined in s. 210.25(5),
398 which deals, at wholesale, in nicotine dispensing devices is
399 subject to, and must be in compliance with, this chapter.

400 Section 6. Section 569.317, Florida Statutes, is created to
401 read:

402 569.317 Wholesale nicotine products dealer permitholder;
403 administrative penalties.—A wholesale nicotine products dealer
404 permitholder may only purchase and sell for retail sale in this
405 state nicotine dispensing devices contained on the directory
406 created by the division pursuant to s. 569.311. The division may
407 suspend or revoke the wholesale nicotine products dealer permit
408 of a wholesale nicotine products dealer permitholder upon
409 sufficient cause appearing of a violation of this part by a
410 wholesale nicotine products dealer permitholder or its agent or
411 employee. The division may also assess an administrative fine of
412 up to \$5,000 for each violation. The division shall deposit all
413 finances collected into the General Revenue Fund. An order imposing
414 an administrative fine becomes effective 15 days after the date
415 of the order. The division may suspend the imposition of a
416 penalty against a wholesale nicotine products dealer



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417 permitholder, conditioned upon compliance with terms the
418 division considers appropriate.

419 Section 7. Section 569.32, Florida Statutes, is amended to
420 read:

421 569.32 Retail nicotine products dealer permits;
422 application; qualifications; renewal; duplicates.—

423 (1) (a) Each person, firm, association, or corporation that
424 seeks to deal, at retail, in nicotine products or nicotine
425 dispensing devices within this ~~the~~ state, or to allow a nicotine
426 products vending machine to be located on its premises in this
427 ~~the~~ state, must obtain a retail nicotine products dealer permit
428 for each place of business or premises at which nicotine
429 products or nicotine dispensing devices are sold. Each dealer
430 owning, leasing, furnishing, or operating vending machines
431 through which nicotine products are sold must obtain a permit
432 for each machine and shall post the permit in a conspicuous
433 place on or near the machine; however, if the dealer has more
434 than one vending machine at a single location or if nicotine
435 products or nicotine dispensing devices are sold both over the
436 counter and through a vending machine at a single location, the
437 dealer need obtain only one permit for that location.

438 (b) Application for a permit must be made on a form
439 furnished by the division and must set forth the name under
440 which the applicant transacts or intends to transact business,
441 the address of the location of the applicant's place of business
442 within this ~~the~~ state, and any other information the division
443 requires. If the applicant has or intends to have more than one
444 place of business dealing in nicotine products or nicotine
445 dispensing devices within this ~~the~~ state, a separate application



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446 must be made for each place of business. If the applicant is a
447 firm or an association, the application must set forth the names
448 and addresses of the persons constituting the firm or
449 association; if the applicant is a corporation, the application
450 must set forth the names and addresses of the principal officers
451 of the corporation. The application must also set forth any
452 other information prescribed by the division for the purpose of
453 identifying the applicant firm, association, or corporation. The
454 application must be signed and verified by oath or affirmation
455 by the owner, if a sole proprietor; or, if the owner is a firm,
456 association, or partnership, by the members or partners thereof;
457 or, if the owner is a corporation, by an executive officer of
458 the corporation or by a person authorized by the corporation to
459 sign the application, together with the written evidence of this
460 authority.

461 (c) Permits must be issued annually.

462 (d) The holder of a permit may renew the permit each year.

463 A dealer that does not timely renew its permit must pay a late
464 fee of \$5 for each month or portion of a month occurring after
465 expiration, and before renewal, of the dealer's permit. The
466 division shall establish by rule a renewal procedure that, to
467 the greatest extent feasible, combines the application and
468 permitting procedure for permits with the application and
469 licensing system for alcoholic beverages.

470 (e) The division may not grant an exemption from the permit
471 fees prescribed in this subsection for any applicant.

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



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475 (b) The division may refuse to issue a permit to any
476 person, firm, association, or corporation the permit of which
477 has been revoked by any jurisdiction; to any corporation an
478 officer of which has had his or her permit revoked by any
479 jurisdiction; or to any person who is or has been an officer of
480 a corporation the permit of which has been revoked by any
481 jurisdiction. Any permit issued to a firm, an association, or a
482 corporation prohibited from obtaining a permit under this
483 chapter must ~~shall~~ be revoked by the division.

484 (3) Upon approval of an application for a permit, the
485 division shall issue to the applicant a permit for the place of
486 business or premises specified in the application. A permit is
487 not assignable and is valid only for the person in whose name
488 the permit is issued and for the place designated in the permit.
489 The permit must ~~shall~~ be conspicuously displayed at all times at
490 the place for which issued.

491 Section 8. Section 569.33, Florida Statutes, is amended to
492 read:

493 569.33 Consent to inspection and search without warrant.—An
494 applicant for a retail nicotine products dealer permit or a
495 wholesale nicotine products dealer permit, by accepting the
496 permit when issued, agrees that the place or premises covered by
497 the permit is subject to inspection and search without a search
498 warrant by the division or its authorized assistants, and by
499 sheriffs, deputy sheriffs, or police officers, to determine
500 compliance with this part.

501 Section 9. Section 569.34, Florida Statutes, is amended to
502 read:

503 569.34 Operating without a retail nicotine products dealer



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504 permit; penalty.-

505 (1) It is unlawful for a person, a firm, an association, or
506 a corporation to deal, at retail, in nicotine products, in any
507 manner, or to allow a nicotine products vending machine to be
508 located on its premises, without having a retail nicotine
509 product dealer permit as required by s. 569.32. A person who
510 violates this subsection ~~section~~ commits a noncriminal
511 violation, punishable by a fine of not more than \$500.

512 (2) A retail tobacco products dealer, as defined in s.
513 569.002(4), is not required to have a separate or additional
514 retail nicotine products dealer permit to deal, at retail, in
515 nicotine products within this ~~the~~ state, or allow a nicotine
516 products vending machine to be located on its premises in this
517 ~~the~~ state. Any retail tobacco products dealer that deals, at
518 retail, in nicotine products or allows a nicotine products
519 vending machine to be located on its premises in this ~~the~~ state,
520 is subject to, and must be in compliance with, this part.

521 (3) Any person who violates subsection (1) ~~this~~
522 ~~section shall~~ be cited for such infraction and must ~~shall~~ be
523 cited to appear before the county court. The citation may
524 indicate the time, date, and location of the scheduled hearing
525 and must indicate that the penalty for a noncriminal violation
526 is a fine of not more than \$500.

527 (a) A person cited for a violation of subsection (1) ~~for an~~
528 ~~infraction under this section~~ may:

- 529 1. Post a \$500 bond; or
530 2. Sign and accept the citation indicating a promise to
531 appear.

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



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

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

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

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

547 (e) If a person is found by the court to have committed the
548 infraction, that person may appeal that finding to the circuit
549 court.

550 (4) On or after March 1, 2025, it is unlawful for a person,
551 a firm, an association, or a corporation in this state to deal,
552 at retail, in nicotine dispensing devices that are not listed on
553 the directory created pursuant to s. 569.311. Any person who
554 knowingly ships or receives nicotine dispensing devices in
555 violation of this section commits a misdemeanor of the second
556 degree, punishable as provided in s. 775.082 or s. 775.083.

557 (5) On or after January 1, 2025, it is unlawful for a
558 retail nicotine products dealer in this state, other than a
559 nicotine product manufacturer that also is permitted as a retail
560 nicotine products dealer in this state and is selling its own
561 products directly to consumers, to buy nicotine dispensing



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562 devices from a wholesaler, manufacturer, or other source that is
563 not a wholesale nicotine products dealer permitholder, a
564 wholesale dealer, as defined in s. 210.01(6), a distributing
565 agent, as defined in s. 210.01(14), or a tobacco products
566 distributor, as defined in s. 210.25(5). Any person who
567 knowingly ships or receives nicotine dispensing devices in
568 violation of this section commits a misdemeanor of the second
569 degree, punishable as provided in s. 775.082 or s. 775.083.

570 (6) The division may suspend or revoke the permit of a
571 retail nicotine products dealer permitholder upon sufficient
572 cause appearing of a violation of this part by a retail nicotine
573 products dealer permitholder, or its agent or employee. The
574 division may also assess an administrative fine of up to \$1,000
575 for each violation. The division shall deposit all fines
576 collected into the General Revenue Fund. An order imposing an
577 administrative fine becomes effective 15 days after the date of
578 the order.

579 Section 10. Section 569.345, Florida Statutes, is created
580 to read:

581 569.345 Seizure and destruction of contraband nicotine
582 dispensing devices.—All nicotine dispensing devices sold,
583 delivered, possessed, or distributed contrary to any provision
584 of this chapter are declared to be contraband, are subject to
585 seizure and confiscation under the Florida Contraband Forfeiture
586 Act by any person whose duty it is to enforce the provisions of
587 this chapter, and must be disposed of as follows:

588 (1) A court having jurisdiction shall order such nicotine
589 dispensing devices forfeited and destroyed. A record of the
590 place where such nicotine dispensing devices were seized, the



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591 kinds and quantities of nicotine dispensing devices destroyed,
592 and the time, place, and manner of destruction must be kept, and
593 a return under oath reporting the destruction must be made to
594 the court by the officer who destroys them.

595 (2) The division shall keep a full and complete record of
596 all nicotine dispensing devices showing:

597 (a) The exact kinds, quantities, and forms of such nicotine
598 dispensing devices;

599 (b) The persons from whom they were received and to whom
600 they were delivered;

601 (c) By whose authority they were received, delivered, and
602 destroyed; and

603 (d) The dates of the receipt, disposal, or destruction,
604 which record must be open to inspection by all persons charged
605 with the enforcement of tobacco and nicotine product laws.

606 (3) The cost of seizure, confiscation, and destruction of
607 contraband nicotine dispensing devices is borne by the person
608 from whom such products are seized.

609 Section 11. Section 569.346, Florida Statutes, is created
610 to read:

611 569.346 Agent for service of process.—

612 (1) Any nonresident manufacturer of nicotine dispensing
613 devices that has not registered to do business in the state as a
614 foreign corporation or business entity shall, as a condition
615 precedent to being included on the directory created in this
616 chapter, appoint and continually engage without interruption the
617 services of an agent in this state to act as agent for the
618 service of process on whom all process, and any action or
619 proceeding against it concerning or arising out of the



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620 enforcement of this chapter, may be served in any manner
621 authorized by law. Such service shall constitute legal and valid
622 service of process on the manufacturer. The manufacturer shall
623 provide the name, address, telephone number, and proof of the
624 appointment and availability of such agent to the division.

625 (2) The manufacturer shall provide notice to the division
626 30 calendar days before termination of the authority of an agent
627 and shall further provide proof to the satisfaction of the
628 division of the appointment of a new agent no less than 5
629 calendar days before the termination of an existing agent
630 appointment. In the event an agent terminates an agency
631 appointment, the manufacturer shall notify the division of the
632 termination within 5 calendar days and shall include proof to
633 the satisfaction of the division of the appointment of a new
634 agent.

635 (3) Any manufacturer whose nicotine dispensing devices are
636 sold in this state who has not appointed and engaged the
637 services of an agent as required by this section shall be deemed
638 to have appointed the Secretary of State as its agent for
639 service of process. The appointment of the Secretary of State as
640 agent shall not satisfy the condition precedent required in
641 subsection (1) of this subsection to be included or retained on
642 the directory.

643 Section 12. Subsections (3) and (4) of section 569.002,
644 Florida Statutes, are amended to read:

645 569.002 Definitions.—As used in this part, the term:

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

648 (4) "Nicotine dispensing device" has the same meaning as



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649 provided in s. 569.31 ~~s. 569.31(3)~~.

650 Section 13. This act shall take effect October 1, 2024.

651

652 ===== T I T L E A M E N D M E N T =====

653 And the title is amended as follows:

654 Delete everything before the enacting clause
655 and insert:

656 A bill to be entitled
657 An act relating to nicotine products and dispensing
658 devices; reordering and amending s. 569.31, F.S.;
659 revising and defining terms for purposes of part II of
660 ch. 569, F.S.; creating s. 569.311, F.S.; requiring
661 nicotine product manufacturers who sell nicotine
662 dispensing products in this state to execute and
663 deliver a form, under penalty of perjury, to the
664 Division of Alcoholic Beverages and Tobacco of the
665 Department of Business and Professional Regulation for
666 each dispensing device sold within this state which
667 meets certain criteria; specifying requirements for
668 the form prescribed by the division; requiring
669 nicotine product manufacturers to submit certain
670 additional materials when submitting the form to the
671 division; requiring a manufacturer to notify the
672 division of certain events; requiring the division to
673 develop and maintain a directory listing certified
674 nicotine product manufacturers and certified nicotine
675 dispensing devices by a specified date; specifying
676 requirements for the directory; requiring the division
677 to establish rules to provide notice to a nicotine



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678 product manufacturer before removal of the
679 manufacturer or any of its nicotine dispensing devices
680 from the directory; providing for administrative
681 review of action by the division regarding the
682 directory; providing penalties for certain violations
683 by manufacturers; subjecting retail and wholesale
684 nicotine products dealers to inspections or audits to
685 ensure compliance; requiring the division to publish
686 findings of such inspections and audits and make them
687 available to the public; authorizing the division to
688 adopt certain procedures by rule; authorizing the
689 division to take certain actions against nicotine
690 product manufacturers who fail to provide certain
691 documents or information; requiring all fines to be
692 deposited into the General Revenue Fund; creating s.
693 569.312, F.S.; requiring specified manufacturers and
694 dealers of nicotine dispensing devices to maintain
695 certain records for a specified timeframe; requiring
696 such manufacturers and dealers to timely comply with
697 division requests to produce records; authorizing the
698 division to examine such records for specified
699 purposes; providing for enforcement; authorizing the
700 division to assess administrative fines for
701 noncompliance and requiring all fines to be deposited
702 into the General Revenue Fund; creating s. 569.313,
703 F.S.; prohibiting the sale, shipment, or distributing
704 of certain nicotine dispensing devices from being sold
705 for retail sale in this state; providing a criminal
706 penalty; authorizing the division to assess fines and



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707 requiring all fines to be deposited into the General
708 Revenue Fund; creating s. 569.316, F.S.; requiring
709 persons or entities that seek to deal or sell certain
710 nicotine products to retail dealers to obtain a
711 wholesale nicotine products dealer permit; specifying
712 requirements and limitations regarding the issuance of
713 such permits; specifying conditions under which the
714 division may refuse to issue a permit; providing
715 requirements and limitations for permitholders;
716 providing that a wholesale dealer or a distributing
717 agent do not need separate or additional wholesale
718 nicotine products permit in this state; creating s.
719 569.317, F.S.; requiring wholesale nicotine products
720 dealer permitholders to purchase and sell for retail
721 sale only nicotine dispensing devices listed in the
722 division's directory; authorizing the division to
723 suspend or revoke a permit if a violation is deemed to
724 have occurred; authorizing the division to assess
725 administrative penalties for violations and requiring
726 all fines to be deposited into the General Revenue
727 Fund; amending s. 569.32, F.S.; requiring that retail
728 nicotine products dealer permits be issued annually;
729 providing procedures for the renewal of permits;
730 requiring the division to levy a delinquent fee under
731 certain circumstances; requiring the division to adopt
732 by rule a certain procedure for the submittal of
733 applications; prohibiting the division from granting
734 exemptions from permit fees; making technical changes;
735 amending s. 569.33, F.S.; providing that holders of a



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736 wholesale nicotine products dealer permit must consent
737 to certain inspections and searches without a warrant;
738 amending s. 569.34, F.S.; providing criminal penalties
739 for the unlawful sale or dealing of unlisted nicotine
740 dispensing devices; providing criminal penalties for
741 the unauthorized purchase of certain nicotine
742 dispensing devices; authorizing the division to
743 suspend or revoke a permit of a permit holder upon
744 sufficient cause of a violation of part II of ch. 569,
745 F.S.; authorizing the division to assess an
746 administrative penalty for violations and requiring
747 all fines to be deposited into the General Revenue
748 Fund; making technical changes; creating s. 569.345,
749 F.S.; providing for the seizure and destruction of
750 unlawful nicotine dispensing devices in accordance
751 with the Florida Contraband Forfeiture Act; requiring
752 a court with jurisdiction to take certain action;
753 requiring the division to maintain certain records;
754 requiring that costs be borne by the person who held
755 the seized products; creating s. 569.346, F.S.;
756 requiring certain manufacturers of nicotine dispensing
757 devices to appoint an agent for certain purposes;
758 requiring such manufacturers to provide certain
759 notice; appointing the Secretary of State as the agent
760 to manufacturers who have not appointed an agent;
761 amending s. 569.002, F.S.; conforming cross-references
762 to changes made by the act; providing an effective
763 date.