

By the Appropriations Committee on Agriculture, Environment, and General Government; the Committee on Regulated Industries; and Senator Perry

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1 A bill to be entitled
2 An act relating to nicotine products and dispensing
3 devices; reordering and amending s. 569.31, F.S.;
4 revising and defining terms for purposes of part II of
5 ch. 569, F.S.; creating s. 569.311, F.S.; requiring
6 nicotine product manufacturers who sell nicotine
7 dispensing products in this state to execute and
8 deliver a form, under penalty of perjury, to the
9 Division of Alcoholic Beverages and Tobacco of the
10 Department of Business and Professional Regulation for
11 each dispensing device sold within this state which
12 meets certain criteria; specifying requirements for
13 the form prescribed by the division; requiring
14 nicotine product manufacturers to submit certain
15 additional materials when submitting the form to the
16 division; requiring a manufacturer to notify the
17 division of certain events; requiring the division to
18 develop and maintain a directory listing certified
19 nicotine product manufacturers and certified nicotine
20 dispensing devices by a specified date; specifying
21 requirements for the directory; requiring the division
22 to establish rules to provide notice to a nicotine
23 product manufacturer before removal of the
24 manufacturer or any of its nicotine dispensing devices
25 from the directory; providing for administrative
26 review of action by the division regarding the
27 directory; providing penalties for certain violations
28 by manufacturers; subjecting retail and wholesale
29 nicotine products dealers to inspections or audits to

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30 ensure compliance; requiring the division to publish
31 findings of such inspections and audits and make them
32 available to the public; authorizing the division to
33 adopt certain procedures by rule; authorizing the
34 division to take certain actions against nicotine
35 product manufacturers who fail to provide certain
36 documents or information; requiring all fines to be
37 deposited into the General Revenue Fund; creating s.
38 569.312, F.S.; requiring specified manufacturers and
39 dealers of nicotine dispensing devices to maintain
40 certain records for a specified timeframe; requiring
41 such manufacturers and dealers to timely comply with
42 division requests to produce records; authorizing the
43 division to examine such records for specified
44 purposes; providing for enforcement; authorizing the
45 division to assess administrative fines for
46 noncompliance and requiring all fines to be deposited
47 into the General Revenue Fund; creating s. 569.313,
48 F.S.; prohibiting the sale, shipment, or distributing
49 of certain nicotine dispensing devices from being sold
50 for retail sale in this state; providing a criminal
51 penalty; authorizing the division to assess fines and
52 requiring all fines to be deposited into the General
53 Revenue Fund; creating s. 569.316, F.S.; requiring
54 persons or entities that seek to deal or sell certain
55 nicotine products to retail dealers to obtain a
56 wholesale nicotine products dealer permit; specifying
57 requirements and limitations regarding the issuance of
58 such permits; specifying conditions under which the

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59 division may refuse to issue a permit; providing
60 requirements and limitations for permitholders;
61 providing that a wholesale dealer or a distributing
62 agent does not need separate or additional wholesale
63 nicotine products permits in this state; creating s.
64 569.317, F.S.; requiring wholesale nicotine products
65 dealer permitholders to purchase and sell for retail
66 sale only nicotine dispensing devices listed in the
67 division's directory; authorizing the division to
68 suspend or revoke a permit if a violation is deemed to
69 have occurred; authorizing the division to assess
70 administrative penalties for violations and requiring
71 all fines to be deposited into the General Revenue
72 Fund; amending s. 569.32, F.S.; requiring that retail
73 nicotine products dealer permits be issued annually;
74 providing procedures for the renewal of permits;
75 requiring the division to levy a delinquent fee under
76 certain circumstances; requiring the division to adopt
77 by rule a certain procedure for the submittal of
78 applications; prohibiting the division from granting
79 exemptions from permit fees; making technical changes;
80 amending s. 569.33, F.S.; providing that holders of a
81 wholesale nicotine products dealer permit must consent
82 to certain inspections and searches without a warrant;
83 amending s. 569.34, F.S.; providing criminal penalties
84 for the unlawful sale or dealing of unlisted nicotine
85 dispensing devices; providing criminal penalties for
86 the unauthorized purchase of certain nicotine
87 dispensing devices; authorizing the division to

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88 suspend or revoke a permit of a permit holder upon
89 sufficient cause of a violation of part II of ch. 569,
90 F.S.; authorizing the division to assess an
91 administrative penalty for violations and requiring
92 all fines to be deposited into the General Revenue
93 Fund; making technical changes; creating s. 569.345,
94 F.S.; providing for the seizure and destruction of
95 unlawful nicotine dispensing devices in accordance
96 with the Florida Contraband Forfeiture Act; requiring
97 a court with jurisdiction to take certain action;
98 requiring the division to maintain certain records;
99 requiring that costs be borne by the person who held
100 the seized products; creating s. 569.346, F.S.;

101 requiring certain manufacturers of nicotine dispensing
102 devices to appoint an agent for certain purposes;
103 requiring such manufacturers to provide certain
104 notice; appointing the Secretary of State as the agent
105 to manufacturers who have not appointed an agent;
106 amending s. 569.002, F.S.; conforming cross-references
107 to changes made by the act; providing an effective
108 date.

109
110 Be It Enacted by the Legislature of the State of Florida:

111
112 Section 1. Section 569.31, Florida Statutes, is reordered
113 and amended to read:

114 569.31 Definitions.—As used in this part, the term:
115 (2)~~(1)~~ "Dealer" is synonymous with the term "retail
116 nicotine products dealer."

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117 ~~(3)~~~~(2)~~ "Division" means the Division of Alcoholic Beverages
118 and Tobacco of the Department of Business and Professional
119 Regulation.

120 (4) "FDA" means the United States Food and Drug
121 Administration.

122 ~~(5)~~~~(3)~~ "Nicotine dispensing device" means any product that
123 employs an electronic, chemical, or mechanical means to produce
124 vapor or aerosol from a nicotine product, including, but not
125 limited to, an electronic cigarette, electronic cigar,
126 electronic cigarillo, electronic pipe, or other similar device
127 or product, any replacement cartridge for such device, and any
128 other container of nicotine in a solution or other form intended
129 to be used with or within an electronic cigarette, electronic
130 cigar, electronic cigarillo, electronic pipe, or other similar
131 device or product. For purposes of this definition, each
132 individual stock keeping unit is considered a separate nicotine
133 dispensing device.

134 ~~(6)~~~~(4)~~ "Nicotine product" means any product that contains
135 nicotine, including liquid nicotine, which is intended for human
136 consumption, whether inhaled, chewed, absorbed, dissolved, or
137 ingested by any means. The term also includes any nicotine
138 dispensing device. The term does not include a:

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

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

143 (c) Product that contains incidental nicotine.

144 (7) "Nicotine product manufacturer" means any person that
145 manufactures nicotine products.

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146 ~~(8)(5)~~ "Permit" is synonymous with the term "retail
147 nicotine products dealer permit."

148 ~~(9)(6)~~ "Retail nicotine products dealer" means the holder
149 of a retail nicotine products dealer permit.

150 ~~(10)(7)~~ "Retail nicotine products dealer permit" means a
151 permit issued by the division under s. 569.32.

152 ~~(11)(8)~~ "Self-service merchandising" means the open display
153 of nicotine products, whether packaged or otherwise, for direct
154 retail customer access and handling before purchase without the
155 intervention or assistance of the dealer or the dealer's owner,
156 employee, or agent. An open display of such products and devices
157 includes the use of an open display unit.

158 ~~(12)~~ "Sell" or "sale" means in addition to its common usage
159 meaning, any sale, transfer, exchange, theft, barter, gift, or
160 offer for sale and distribution, in any manner or by any means
161 whatsoever.

162 ~~(13)~~ "Timely filed premarket tobacco product application"
163 means either:

164 ~~(a)~~ An application pursuant to 21 U.S.C. s. 387j for a
165 nicotine dispensing device containing or utilizing nicotine
166 derived from tobacco marketed in the United States as of August
167 8, 2016, which was submitted to the FDA on or before September
168 9, 2020, and accepted for filing; or

169 ~~(b)~~ An application pursuant to 21 U.S.C. s. 387j for a
170 nicotine dispensing device containing or utilizing nicotine
171 derived from a non-tobacco source that is not a single use or
172 disposable electronic cigarette, an electronic cigar, an
173 electronic cigarillo, an electronic pipe, or other similar
174 device and that does not use a sealed, prefilled, and disposable

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175 cartridge of nicotine in a solution.

176 (14) "Wholesale nicotine products dealer" means the holder
177 of a wholesale nicotine products dealer permit who purchases
178 nicotine dispensing devices or nicotine products from any
179 nicotine product manufacturer.

180 (15) "Wholesale nicotine products dealer permit" means a
181 permit issued by the division under s. 569.316.

182 (1)~~(9)~~ "Any person under the age of 21" does not include
183 any person under the age of 21 who:

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

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

187 Section 2. Section 569.311, Florida Statutes, is created to
188 read:

189 569.311 Nicotine dispensing device directory.-

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

196 (a) The manufacturer of a nicotine dispensing device has
197 submitted a timely filed premarket tobacco product application
198 for the nicotine dispensing device pursuant to 21 U.S.C. s. 387j
199 and remains stayed by a court order, or the manufacturer has
200 filed a timely request for supervisory review with the FDA which
201 remains under review, or the order has been rescinded by the FDA
202 or vacated by a court; or

203 (b) The nicotine product manufacturer has received a

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204 marketing granted order under 21 U.S.C. s. 387j for the nicotine
205 dispensing device from the FDA.

206 (2) The form prescribed by the division pursuant to
207 subsection (1) must require each nicotine product manufacturer
208 to set forth the name under which the nicotine product
209 manufacturer transacts or intends to transact business, the
210 address of the location of the nicotine product manufacturer's
211 principal place of business, the nicotine product manufacturer's
212 e-mail address, and the brand name of the nicotine dispensing
213 device, the device's category (e.g., e-liquid, power unit,
214 device, e-liquid cartridge, e-liquid pod, disposable), the
215 device's name, and any flavor utilized with the device that is
216 sold in this state. The division may allow a nicotine product
217 manufacturer to group its nicotine dispensing devices on its
218 certification.

219 (3) In addition to completing the form prescribed by the
220 division pursuant to subsection (1), each nicotine product
221 manufacturer shall provide a copy of the cover page of the
222 granted marketing order issued by the FDA pursuant to 21 U.S.C.
223 s. 387j for each device; a copy of the acceptance letter issued
224 by the FDA pursuant to 21 U.S.C. s. 387j for a timely filed
225 premarket tobacco product application for each device; or a
226 document issued by the FDA or by a court confirming that the
227 premarket tobacco product application has been received and
228 denied, but the order is not yet in effect for each device.

229 (4) Any nicotine product manufacturer submitting a
230 certification pursuant to subsection (1) shall notify the
231 division within 30 days after any material change to the
232 certification, including, but not limited to, issuance by the

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233 FDA of any of the following:

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

236 (b) An order requiring a nicotine product manufacturer to
237 remove a nicotine dispensing device or nicotine product from the
238 market either temporarily or permanently;

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

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

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

246 (5) The division shall develop and maintain a directory
247 listing all nicotine product manufacturers that sell nicotine
248 dispensing devices in this state and the nicotine dispensing
249 devices certified by those manufacturers with the division which
250 comply with this section. The division shall make the directory
251 available January 1, 2025, on its or the Department of Business
252 and Professional Regulation's website. The division shall update
253 the directory as necessary. The division shall establish a
254 process to provide retailers, distributors, and wholesalers
255 notice of the initial publication of the directory and changes
256 made to the directory in the prior month.

257 (6) The division shall establish by rule a process to
258 provide a nicotine product manufacturer notice and an
259 opportunity to cure deficiencies before removing the
260 manufacturer or any of its nicotine dispensing devices from the
261 directory.

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262 (a) The division may not remove the nicotine product
263 manufacturer or any of its nicotine dispensing devices from the
264 directory until at least 30 days after the nicotine product
265 manufacturer has been given notice of an intended action. Notice
266 is sufficient and deemed immediately received by a nicotine
267 product manufacturer if the notice is sent either electronically
268 or by facsimile to an e-mail address or facsimile number
269 provided by the nicotine product manufacturer in its most recent
270 certification filed under subsection (1).

271 (b) The nicotine product manufacturer has 15 days from the
272 date of service of the notice of the division's intended action
273 to establish that the nicotine product manufacturer or any of
274 its nicotine dispensing devices must be included on the
275 directory.

276 (c) A determination by the division not to include or to
277 remove a nicotine product manufacturer or nicotine dispensing
278 device from the directory is subject to review under chapter
279 120. If a nicotine product manufacturer seeks review of removal
280 from the directory, the division must keep the nicotine
281 dispensing device on the directory until entry of a final order.

282 (d) If a nicotine dispensing device is removed from the
283 directory, each retailer and each wholesaler holding nicotine
284 dispensing devices for eventual sale to a consumer in this state
285 has 30 days from the day such product is removed from the
286 directory to sell the product or remove the product from its
287 inventory. After 30 days following removal from the directory,
288 the product identified in the notice of removal is contraband
289 and subject to s. 569.345.

290 (7) (a) Except as provided in subsections (b) and (c),

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291 beginning March 1, 2025, or on the date that the division first
292 makes the directory available for public inspection on its or
293 the Department of Business and Professional Regulation's
294 website, whichever is later, a nicotine product manufacturer
295 that offers for sale in this state a nicotine dispensing device
296 not listed on the directory is subject to a fine of \$1,000 per
297 day for each individual nicotine dispensing device offered for
298 sale in violation of this section until the offending product is
299 removed from the market or until the offending product is
300 properly listed on the directory.

301 (b) Each retailer shall have 60 days from the date that the
302 division first makes the directory available for inspection on
303 its public website to sell products that were in its inventory
304 and not included on the directory or remove those products from
305 inventory.

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

311 (8) A nicotine product manufacturer that falsely represents
312 any of the information required by subsection (1) or subsection
313 (2) commits a felony of the third degree for each false
314 representation, punishable as provided in s. 775.082 or s.
315 775.083.

316 (9) Each retail nicotine products dealer and wholesale
317 nicotine products dealer is subject to unannounced inspections
318 or audit checks by the division for purposes of enforcing this
319 section. The division shall conduct unannounced follow-up

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320 compliance checks of all noncompliant retail nicotine products
321 dealers or wholesale nicotine products dealers within 30 days
322 after any violation of this section. The division shall publish
323 the results of all inspections or audits at least annually and
324 shall make the results available to the public on request.

325 (10) The division may establish by rule a procedure to
326 allow nicotine product manufacturers to renew certifications
327 without having to resubmit all the information required by this
328 section.

329 (11) The failure of a nicotine product manufacturer to
330 provide information or documents required by this section may
331 result in a nicotine dispensing device not being included on the
332 directory or the removal of a nicotine dispensing device from
333 the directory. The division may assess an administrative fine of
334 up to \$1,000 for each nicotine dispensing device offered for
335 sale in this state if a nicotine product manufacturer fails to
336 provide notice to the division of a material change to its
337 certification within 30 days after that material change. The
338 division shall deposit all fines collected into the General
339 Revenue Fund. An order imposing an administrative fine becomes
340 effective 15 days after the date of the order.

341 Section 3. Section 569.312, Florida Statutes, is created to
342 read:

343 569.312 Maintenance and inspection of nicotine dispensing
344 device records.—

345 (1) Each nicotine product manufacturer that sells nicotine
346 dispensing devices in this state shall maintain and keep for a
347 period of 3 years, at the address listed on the certification
348 required pursuant to s. 569.311, a complete and accurate record

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349 of the number of nicotine dispensing devices sold or delivered
350 to a wholesaler in this state and to which each nicotine
351 dispensing device was sold on a wholesale basis, including the
352 business name, license number, shipping and business addresses,
353 e-mail address, and telephone number for the person or entity to
354 which each product was sold. Such records may be kept in an
355 electronic or paper format.

356 (2) Each retail nicotine products dealer; wholesale
357 nicotine product dealer; wholesale dealer, as defined in s.
358 210.01(6); and distributing agent, as defined in s. 210.01(14),
359 shall maintain and keep for a period of 3 years at its principal
360 place of business a complete and accurate record of the quantity
361 of each nicotine dispensing device received, delivered, or sold
362 in this state and to which each nicotine dispensing device was
363 sold or delivered or from which the business received each
364 nicotine dispensing device, including the business name, license
365 number, shipping and business addresses, e-mail address, and
366 telephone number for the person or entity to which each product
367 was sold or delivered or from which each product was received.
368 Such records may be kept in an electronic or paper format.

369 (3) Nicotine product manufacturers that sell nicotine
370 dispensing devices in this state; retail nicotine products
371 dealers; wholesale nicotine products dealers; wholesale dealers,
372 as defined in s. 210.01(6); and distributing agents, as defined
373 in s. 210.01(14), who sell or deliver nicotine dispensing
374 devices directly to consumers are not required to keep and
375 maintain the name, address, e-mail address, and telephone number
376 of consumers who purchase or receive nicotine dispensing
377 devices.

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378 (4) Within 7 calendar days after receiving a request by the
379 division, a nicotine product manufacturer that sells nicotine
380 dispensing devices in this state, including a manufacturer
381 selling nicotine dispensing devices directly to consumers; a
382 retail nicotine products dealer; a wholesale nicotine products
383 dealer; a wholesale dealer, as defined in s. 210.01(6); and a
384 distributing agent, as defined in s. 210.01(14), shall provide
385 to the division or its duly authorized representative copies of
386 records related to the nicotine dispensing devices received,
387 delivered, or sold in this state and to which those nicotine
388 dispensing devices were sold or delivered or from which they
389 were received.

390 (5) The division, or a designated employee thereof, may
391 examine the records required to be maintained by each nicotine
392 product manufacturer, retail nicotine products dealer, wholesale
393 nicotine products dealer, wholesale dealer, as defined in s.
394 210.01(6), and distributing agent, as defined in s. 210.01(14);
395 issue subpoenas to such persons or entities; administer oaths;
396 and take depositions of witnesses within or outside of this
397 state. The civil law of this state regarding enforcing obedience
398 to a subpoena lawfully issued by a judge or other person duly
399 authorized to issue subpoenas under the laws of this state in
400 civil cases applies to a subpoena issued by the division, or any
401 designated employee thereof. The subpoena may be enforced by
402 writ of attachment issued by the division, or any designated
403 employee, for such witness to compel him or her to appear before
404 the division, or any designated employee, and give his or her
405 testimony and to bring and produce such records as may be
406 required for examination. The division, or any designated

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407 employee, may bring an action against a witness who refuses to
408 appear or give testimony by citation before the circuit court,
409 which shall punish such witness for contempt as in cases of
410 refusal to obey the orders and process of the circuit court. The
411 division may in such cases pay such attendance and mileage fees
412 as are permitted to be paid to witnesses in civil cases
413 appearing before the circuit court.

414 (6) The division may assess an administrative fine of up to
415 \$1,000 for each violation of this section. The division shall
416 deposit all fines collected into the General Revenue Fund. An
417 order imposing an administrative fine becomes effective 15 days
418 after the date of the order.

419 Section 4. Section 569.313, Florida Statutes, is created to
420 read:

421 569.313 Shipment of unregistered nicotine dispensing
422 devices sold for retail sale in this state.—

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

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

430 (b) The nicotine product manufacturer has not submitted a
431 timely filed premarket tobacco product application for the
432 nicotine dispensing device;

433 (c) The nicotine product manufacturer's timely filed
434 premarket tobacco product application for the nicotine
435 dispensing device is no longer pending because it was not

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436 accepted by the FDA, it was denied by the FDA, or it is subject
437 to any other order or action by the FDA or any court that
438 negatively affects the ability of the product to be introduced
439 or delivered into interstate commerce for commercial
440 distribution in the United States; or

441 (d) The nicotine product manufacturer has not submitted the
442 certification required under this chapter for any of the
443 nicotine dispensing devices intended for eventual retail sale to
444 a consumer in this state.

445 (2) Any person who knowingly ships or receives nicotine
446 dispensing devices in violation of this section commits a
447 misdemeanor of the first degree, punishable as provided in s.
448 775.082 or s. 775.083.

449 (3) The division may also assess an administrative fine of
450 up to \$5,000 for each violation. The division shall deposit all
451 finances collected into the General Revenue Fund. An order imposing
452 an administrative fine becomes effective 15 days after the date
453 of the order.

454 Section 5. Section 569.316, Florida Statutes, is created to
455 read:

456 569.316 Wholesale nicotine products dealer permits;
457 application; qualifications; renewal; duplicates.—

458 (1) (a) Each person, firm, association, or corporation that
459 seeks to deal, at wholesale, in nicotine products that will be
460 sold at retail within this state, or to sell nicotine products
461 or nicotine dispensing devices to any retail nicotine products
462 dealer who intends to sell those nicotine products in this
463 state, must obtain a wholesale nicotine products dealer permit
464 for each place of business or premises at which nicotine

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465 products are sold.

466 (b) Application for a wholesale nicotine products dealer
467 permit must be made on a form furnished by the division and must
468 set forth the name under which the applicant transacts or
469 intends to transact business, the address of the location of the
470 applicant's place of business, the applicant's e-mail address,
471 and any other information the division requires. If the
472 applicant has or intends to have more than one place of business
473 dealing in nicotine products or nicotine dispensing devices, a
474 separate application must be made for each place of business. If
475 the applicant is a firm or an association, the application must
476 set forth the names, e-mail addresses, and addresses of the
477 persons constituting the firm or association. If the applicant
478 is a corporation, the application must set forth the names, e-
479 mail addresses, and addresses of the principal officers of the
480 corporation. The application must also set forth any other
481 information prescribed by the division for the purpose of
482 identifying the applicant firm, association, or corporation. The
483 application must be signed and verified by oath or affirmation
484 by the owner, if a sole proprietor; if the owner is a firm,
485 association, or partnership, by the members or partners thereof;
486 or, if the owner is a corporation, by an executive officer of
487 the corporation or by a person authorized by the corporation to
488 sign the application, together with the written evidence of this
489 authority.

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

493 (b) The division may refuse to issue a wholesale nicotine

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494 products dealer permit to any person, firm, association, or
495 corporation whose permit has been revoked by any jurisdiction;
496 to any corporation an officer of which has had such permit
497 revoked by any jurisdiction; or to any person who is or has been
498 an officer of a corporation whose permit has been revoked by any
499 jurisdiction. The division must revoke any wholesale nicotine
500 products dealer permit issued to a firm, an association, or a
501 corporation prohibited from obtaining such permit under this
502 chapter.

503 (3) Upon approval of an application for a wholesale
504 nicotine products dealer permit, the division shall issue to the
505 applicant a wholesale nicotine products dealer permit for the
506 place of business or premises specified in the application. A
507 wholesale nicotine products dealer permit is not assignable and
508 is valid only for the person in whose name the wholesale
509 nicotine products dealer permit is issued and for the place
510 designated in the wholesale nicotine products dealer permit. The
511 wholesale nicotine products dealer permit must be conspicuously
512 displayed at all times at the place for which it is issued.

513 (4) A wholesale dealer, as defined in s. 210.01(6), or a
514 distributing agent, as defined in s. 210.01(14), is not required
515 to have a separate or additional wholesale nicotine products
516 dealer permit to deal, at wholesale, in nicotine dispensing
517 devices within this state. A wholesale dealer, as defined in s.
518 210.01(6), a distributing agent, as defined in s. 210.01(14), or
519 a tobacco products distributor, as defined in s. 210.25(5),
520 which deals, at wholesale, in nicotine dispensing devices is
521 subject to, and must be in compliance with, this chapter.

522 Section 6. Section 569.317, Florida Statutes, is created to

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523 read:

524 569.317 Wholesale nicotine products dealer permitholder;
525 administrative penalties.—A wholesale nicotine products dealer
526 permitholder may only purchase and sell for retail sale in this
527 state nicotine dispensing devices contained on the directory
528 created by the division pursuant to s. 569.311. The division may
529 suspend or revoke the wholesale nicotine products dealer permit
530 of a wholesale nicotine products dealer permitholder upon
531 sufficient cause appearing of a violation of this part by a
532 wholesale nicotine products dealer permitholder or its agent or
533 employee. The division may also assess an administrative fine of
534 up to \$5,000 for each violation. The division shall deposit all
535 finances collected into the General Revenue Fund. An order imposing
536 an administrative fine becomes effective 15 days after the date
537 of the order. The division may suspend the imposition of a
538 penalty against a wholesale nicotine products dealer
539 permitholder, conditioned upon compliance with terms the
540 division considers appropriate.

541 Section 7. Section 569.32, Florida Statutes, is amended to
542 read:

543 569.32 Retail nicotine products dealer permits;
544 application; qualifications; renewal; duplicates.—

545 (1) (a) Each person, firm, association, or corporation that
546 seeks to deal, at retail, in nicotine products or nicotine
547 dispensing devices within this ~~the~~ state, or to allow a nicotine
548 products vending machine to be located on its premises in this
549 ~~the~~ state, must obtain a retail nicotine products dealer permit
550 for each place of business or premises at which nicotine
551 products or nicotine dispensing devices are sold. Each dealer

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552 owning, leasing, furnishing, or operating vending machines
553 through which nicotine products are sold must obtain a permit
554 for each machine and shall post the permit in a conspicuous
555 place on or near the machine; however, if the dealer has more
556 than one vending machine at a single location or if nicotine
557 products or nicotine dispensing devices are sold both over the
558 counter and through a vending machine at a single location, the
559 dealer need obtain only one permit for that location.

560 (b) Application for a permit must be made on a form
561 furnished by the division and must set forth the name under
562 which the applicant transacts or intends to transact business,
563 the address of the location of the applicant's place of business
564 within this ~~the~~ state, and any other information the division
565 requires. If the applicant has or intends to have more than one
566 place of business dealing in nicotine products or nicotine
567 dispensing devices within this ~~the~~ state, a separate application
568 must be made for each place of business. If the applicant is a
569 firm or an association, the application must set forth the names
570 and addresses of the persons constituting the firm or
571 association; if the applicant is a corporation, the application
572 must set forth the names and addresses of the principal officers
573 of the corporation. The application must also set forth any
574 other information prescribed by the division for the purpose of
575 identifying the applicant firm, association, or corporation. The
576 application must be signed and verified by oath or affirmation
577 by the owner, if a sole proprietor; or, if the owner is a firm,
578 association, or partnership, by the members or partners thereof;
579 or, if the owner is a corporation, by an executive officer of
580 the corporation or by a person authorized by the corporation to

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581 sign the application, together with the written evidence of this
582 authority.

583 (c) Permits must be issued annually.

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

585 A dealer that does not timely renew its permit must pay a late
586 fee of \$5 for each month or portion of a month occurring after
587 expiration, and before renewal, of the dealer's permit. The
588 division shall establish by rule a renewal procedure.

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

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

594 (b) The division may refuse to issue a permit to any
595 person, firm, association, or corporation the permit of which
596 has been revoked by any jurisdiction; to any corporation an
597 officer of which has had his or her permit revoked by any
598 jurisdiction; or to any person who is or has been an officer of
599 a corporation the permit of which has been revoked by any
600 jurisdiction. Any permit issued to a firm, an association, or a
601 corporation prohibited from obtaining a permit under this
602 chapter must ~~shall~~ be revoked by the division.

603 (3) Upon approval of an application for a permit, the
604 division shall issue to the applicant a permit for the place of
605 business or premises specified in the application. A permit is
606 not assignable and is valid only for the person in whose name
607 the permit is issued and for the place designated in the permit.
608 The permit must ~~shall~~ be conspicuously displayed at all times at
609 the place for which issued.

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610 Section 8. Section 569.33, Florida Statutes, is amended to
611 read:

612 569.33 Consent to inspection and search without warrant.—An
613 applicant for a retail nicotine products dealer permit or a
614 wholesale nicotine products dealer permit, by accepting the
615 permit when issued, agrees that the place or premises covered by
616 the permit is subject to inspection and search without a search
617 warrant by the division or its authorized assistants, and by
618 sheriffs, deputy sheriffs, or police officers, to determine
619 compliance with this part.

620 Section 9. Section 569.34, Florida Statutes, is amended to
621 read:

622 569.34 Operating without a retail nicotine products dealer
623 permit; penalty.—

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

631 (2) A retail tobacco products dealer, as defined in s.
632 569.002(4), is not required to have a separate or additional
633 retail nicotine products dealer permit to deal, at retail, in
634 nicotine products within this ~~the~~ state, or allow a nicotine
635 products vending machine to be located on its premises in this
636 ~~the~~ state. Any retail tobacco products dealer that deals, at
637 retail, in nicotine products or allows a nicotine products
638 vending machine to be located on its premises in this ~~the~~ state,

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639 is subject to, and must be in compliance with, this part.

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

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

- 648 1. Post a \$500 bond; or
649 2. Sign and accept the citation indicating a promise to
650 appear.

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

- 652 1. Pay the fine, either by mail or in person, within 10
653 days after receiving the citation; or
654 2. If the person has posted bond, forfeit the bond by not
655 appearing at the scheduled hearing.

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

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

666 (e) If a person is found by the court to have committed the
667 infraction, that person may appeal that finding to the circuit

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668 court.

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

676 (5) On or after January 1, 2025, it is unlawful for a
677 retail nicotine products dealer in this state, other than a
678 nicotine product manufacturer that also is permitted as a retail
679 nicotine products dealer in this state and is selling its own
680 products directly to consumers, to buy nicotine dispensing
681 devices from a wholesaler, manufacturer, or other source that is
682 not a wholesale nicotine products dealer permitholder, a
683 wholesale dealer, as defined in s. 210.01(6), a distributing
684 agent, as defined in s. 210.01(14), or a tobacco products
685 distributor, as defined in s. 210.25(5). Any person who
686 knowingly ships or receives nicotine dispensing devices in
687 violation of this section commits a misdemeanor of the second
688 degree, punishable as provided in s. 775.082 or s. 775.083.

689 (6) The division may suspend or revoke the permit of a
690 retail nicotine products dealer permitholder upon sufficient
691 cause appearing of a violation of this part by a retail nicotine
692 products dealer permitholder, or its agent or employee. The
693 division may also assess an administrative fine of up to \$1,000
694 for each violation. The division shall deposit all fines
695 collected into the General Revenue Fund. An order imposing an
696 administrative fine becomes effective 15 days after the date of

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697 the order.

698 Section 10. Section 569.345, Florida Statutes, is created
699 to read:

700 569.345 Seizure and destruction of contraband nicotine
701 dispensing devices.—All nicotine dispensing devices sold,
702 delivered, possessed, or distributed contrary to any provision
703 of this chapter are declared to be contraband, are subject to
704 seizure and confiscation under the Florida Contraband Forfeiture
705 Act by any person whose duty it is to enforce the provisions of
706 this chapter, and must be disposed of as follows:

707 (1) A court having jurisdiction shall order such nicotine
708 dispensing devices forfeited and destroyed. A record of the
709 place where such nicotine dispensing devices were seized, the
710 kinds and quantities of nicotine dispensing devices destroyed,
711 and the time, place, and manner of destruction must be kept, and
712 a return under oath reporting the destruction must be made to
713 the court by the officer who destroys them.

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

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

718 (b) The persons from whom they were received and to whom
719 they were delivered;

720 (c) By whose authority they were received, delivered, and
721 destroyed; and

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

725 (3) The cost of seizure, confiscation, and destruction of

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726 contraband nicotine dispensing devices is borne by the person
727 from whom such products are seized.

728 Section 11. Section 569.346, Florida Statutes, is created
729 to read:

730 569.346 Agent for service of process.-

731 (1) Any nonresident manufacturer of nicotine dispensing
732 devices that has not registered to do business in the state as a
733 foreign corporation or business entity shall, as a condition
734 precedent to being included on the directory created in this
735 chapter, appoint and continually engage without interruption the
736 services of an agent in this state to act as agent for the
737 service of process on whom all process, and any action or
738 proceeding against it concerning or arising out of the
739 enforcement of this chapter, may be served in any manner
740 authorized by law. Such service shall constitute legal and valid
741 service of process on the manufacturer. The manufacturer shall
742 provide the name, address, telephone number, and proof of the
743 appointment and availability of such agent to the division.

744 (2) The manufacturer shall provide notice to the division
745 30 calendar days before termination of the authority of an agent
746 and shall further provide proof to the satisfaction of the
747 division of the appointment of a new agent no less than 5
748 calendar days before the termination of an existing agent
749 appointment. In the event an agent terminates an agency
750 appointment, the manufacturer shall notify the division of the
751 termination within 5 calendar days and shall include proof to
752 the satisfaction of the division of the appointment of a new
753 agent.

754 (3) Any manufacturer whose nicotine dispensing devices are

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755 sold in this state who has not appointed and engaged the
756 services of an agent as required by this section shall be deemed
757 to have appointed the Secretary of State as its agent for
758 service of process. The appointment of the Secretary of State as
759 agent shall not satisfy the condition precedent required in
760 subsection (1) of this subsection to be included or retained on
761 the directory.

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

764 569.002 Definitions.—As used in this part, the term:

765 (3) "Nicotine product" has the same meaning as provided in
766 s. 569.31 ~~s. 569.31(4)~~.

767 (4) "Nicotine dispensing device" has the same meaning as
768 provided in s. 569.31 ~~s. 569.31(3)~~.

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