

1 A bill to be entitled

2 An act relating to nicotine products; providing a
3 short title; amending s. 569.33, F.S.; providing that
4 applicants for retail tobacco products dealer permits
5 consent to inspection and search without a warrant;
6 amending s. 569.35, F.S.; authorizing the Division of
7 Alcoholic Beverages and Tobacco of the Department of
8 Business and Professional Regulation to assess
9 specified fines and certain penalties for each
10 violation involving the sale of a single-use nicotine
11 dispensing device that has not received a marketing
12 granted order under 21 U.S.C. s. 387j or advertising,
13 promoting, or displaying for sale such devices;
14 directing the deposit of specified amounts of such
15 fines into the Professional Regulation Trust Fund and
16 the Department of Law Enforcement Operating Trust
17 Fund; providing a criminal penalty; requiring that any
18 administrative fines assessed to be used for specified
19 purposes; amending s. 569.37, F.S.; restricting
20 advertising, promoting, and displaying for sale
21 certain single-use nicotine dispensing devices by
22 retail nicotine products dealers in certain instances;
23 authorizing advertising, promoting, and displaying for
24 sale certain single-use nicotine dispensing devices by
25 retail nicotine products dealers in certain instances;

26 providing applicability; providing restrictions on
 27 locations for specified dealers of nicotine products;
 28 requiring dealers to submit specified information to
 29 the division; requiring certain dealers to maintain
 30 specified records; authorizing the division to request
 31 and have access to such records; requiring dealers to
 32 provide specified information within a certain time
 33 period following such a request; requiring dealers to
 34 submit an application to the division for conditional
 35 use or legally recognized nonconforming use in
 36 specified circumstances; requiring dealers to relocate
 37 following approval of such applications within a
 38 specified period of time; prohibiting dealers that are
 39 required to relocate from being in breach of contract
 40 of any lease agreement; amending s. 569.39, F.S.;
 41 requiring the adoption of division rules to include
 42 specified guidelines and authorizations; amending s.
 43 569.44, F.S.; revising annual report requirements;
 44 providing an effective date.

45
 46 Be It Enacted by the Legislature of the State of Florida:

47
 48 **Section 1.** This act may be cited as the "Florida Age Gate
 49 Act."

50 **Section 2. Section 569.33, Florida Statutes, is amended to**

51 **read:**

52 569.33 Consent to inspection and search without warrant.—
 53 An applicant for a retail nicotine products dealer permit, or a
 54 retail tobacco products dealer permit issued under s. 569.003,
 55 by accepting the permit when issued, agrees that the place or
 56 premises covered by the permit is subject to inspection and
 57 search without a search warrant by the division or its
 58 authorized assistants, and by sheriffs, deputy sheriffs, or
 59 police officers, to determine compliance with this part.

60 **Section 3. Section 569.35, Florida Statutes, is amended to**
 61 **read:**

62 569.35 Retail nicotine product dealers; administrative and
 63 criminal penalties.—

64 (1) The division may suspend or revoke the permit of a
 65 dealer, including the retail tobacco products dealer permit of a
 66 retail tobacco products dealer, as defined in s. 569.002(4),
 67 upon sufficient cause appearing of the violation of ~~any of the~~
 68 ~~provisions of~~ this part, by a dealer, or by a dealer's agent or
 69 employee.

70 (2) (a) Except as provided in paragraph (b), the division
 71 may ~~also~~ assess and accept an administrative fine of up to
 72 \$1,000 against a dealer for each violation. The division shall
 73 deposit all fines collected pursuant to this subsection into the
 74 General Revenue Fund as collected.

75 (b) For each violation involving the sale of a single-use

76 nicotine dispensing device that has not received a marketing
77 granted order under 21 U.S.C. s. 387j or the advertising,
78 promoting, or displaying for sale such devices, the division may
79 impose the following penalties:

80 1. For a first violation, an administrative fine of at
81 least \$500, but not more than \$1,000, and an order requiring
82 corrective action to be taken within 15 days after assessment of
83 such fine to preclude a recurrence.

84 2. For a second violation that occurs within 12 weeks
85 after the first violation, an administrative fine of \$1,000 and
86 a suspension of up to 30 days of the dealer's retail nicotine
87 products dealer permit.

88 3. For a third or subsequent violation that occurs within
89 12 weeks after the previous violation, an administrative fine of
90 at least \$2,500, but not more than \$5,000, and at least a 30-day
91 suspension or revocation of the dealer's nicotine products
92 dealer permit.

93
94 A second or subsequent violation that occurs more than 12 weeks
95 after the previous violation is punishable pursuant to
96 subparagraph (b)1. The division shall deposit one-half of all
97 finest collected under this paragraph into the Professional
98 Regulation Trust Fund, and the remaining one-half of the fines
99 collected shall be deposited into the Department of Law
100 Enforcement Operating Trust Fund.

101 (c) In addition to any administrative penalties authorized
102 under subparagraph (b)3., a dealer, or a dealer's agent or
103 employee, who commits a third or subsequent violation within 12
104 weeks after the previous violation commits a misdemeanor of the
105 second degree, punishable as provided in s. 775.082 or s.
106 775.083.

107 (3) An order imposing an administrative fine becomes
108 effective 15 days after the date of the order. The division may
109 suspend the imposition of a penalty against a dealer,
110 conditioned upon the dealer's compliance with terms the division
111 considers appropriate.

112 (4) The administrative fines assessed under paragraph
113 (2)(b) shall be used by the division and the Department of Law
114 Enforcement to:

115 (a) Increase enforcement personnel.

116 (b) Fund compliance inspections and investigations
117 pursuant to s. 569.33.

118 (c) Develop and implement a public awareness campaign to
119 reduce nicotine use by persons under the age of 21.

120 **Section 4. Subsections (3) and (4) of section 569.37,**
121 **Florida Statutes, are renumbered as subsections (4) and (5),**
122 **respectively, present subsection (3) is amended, and a new**
123 **subsection (3) and subsection (6) are added to that section, to**
124 **read:**

125 569.37 Sale or delivery of nicotine products;

126 restrictions.—

127 (3) (a) A dealer that does not prohibit persons under 21
128 years of age on the licensed premises, that sells a single-use
129 nicotine dispensing device that has not received a marketing
130 granted order under 21 U.S.C. s. 387j, may not:

131 1. Advertise, promote, or display for sale such devices.

132 2. Advertise, promote, or display for sale such devices in
133 an area that is visible to persons outside of the dealer's
134 licensed premises.

135 3. Advertise, promote, or display for sale such devices on
136 the dealer's licensed premises in a manner visible to persons
137 under the age of 21, including, but not limited to, placement of
138 such devices in an open display unit located in an area visible
139 to persons under the age of 21.

140 (b) A dealer that prohibits persons under 21 years of age
141 on the licensed premises, that sells a single-use nicotine
142 dispensing device that has received a marketing granted order
143 under 21 U.S.C. s. 387j, may advertise, promote, or display for
144 sale such devices in an area that is visible to persons inside
145 or outside of the dealer's licensed premises.

146 (4) ~~(3)~~ Notwithstanding the provisions of subsections (1),
147 and (2), and (3), this section does ~~shall~~ not apply to an
148 establishment that prohibits persons under 21 years of age on
149 the licensed premises.

150 (6) (a) A dealer that derives more than 20 percent of its

151 gross monthly retail sales from the sale of nicotine products
152 may not be located within 500 feet of the real property that
153 comprises a public or private elementary school, middle school,
154 or secondary school. The required distance must be measured on a
155 straight line from the nearest property line of the retail shop
156 to the nearest property line of the school.

157 (b) Each dealer must submit a survey certified under
158 chapter 472, performed at least 30 days before the date of the
159 submission of the application for a permit under s. 569.32,
160 containing a legal description of the boundaries of the place or
161 premises and any existing public or private elementary school,
162 middle school, or secondary school located within 500 feet. The
163 measurement scaled by the division governs any measurement
164 disputes.

165 (c) A dealer located within 500 feet of real property that
166 comprises a public or private elementary school, middle school,
167 or secondary school must maintain records verifying the gross
168 monthly retail sales from the sale of nicotine products during
169 the previous 6 months, as well as the percentage of such sales
170 that represents the retail sales of nicotine dispensing devices.
171 The division may request and have access to such records for the
172 purpose of enforcement. Within 14 days after such request, the
173 dealer must provide a summary sales report verifying its sales
174 for the period of time requested. Failure of the dealer to
175 provide a sales report when requested by the division, or

176 failure of the dealer to adequately demonstrate that the
177 business establishment has sold less than the required
178 percentage of nicotine products and nicotine dispensing devices,
179 is a violation of this section.

180 (d) Within 90 days after the opening of a public or
181 private elementary school, middle school, or secondary school
182 located within 500 feet of an existing place of business or
183 premises that sells nicotine products or nicotine dispensing
184 devices, as determined under paragraph (a), the dealer must
185 submit an application to the division for conditional use or
186 legally recognized nonconforming use in accordance with the
187 local government's applicable land development regulations. Upon
188 approval of the division for conditional use or a legally
189 recognized nonconforming use, the dealer must relocate the
190 business or premises within 180 days to a new location in
191 compliance with this subsection. A dealer that is required to
192 relocate under this subsection may not be deemed to be in breach
193 of contract of any lease agreement.

194 (e) Within 90 days after July 1, 2025, a dealer that has a
195 place of business or premises located within 500 feet of a
196 public or private elementary school, middle school, or secondary
197 school, as determined under paragraph (a), must submit an
198 application to the division for conditional use or legally
199 recognized nonconforming use in accordance with the local
200 government's land development regulations. Upon approval of the

201 division for conditional use or a legally recognized
202 nonconforming use, the dealer must relocate the business or
203 premises within 180 days to a new location in compliance with
204 this subsection. A dealer that is required to relocate under
205 this subsection may not be deemed to be in breach of contract of
206 any lease agreement.

207 **Section 5. Section 569.39, Florida Statutes, is amended to**
208 **read:**

209 569.39 Rulemaking authority.—The division shall adopt
210 rules to administer and enforce this part. The rules shall
211 include guidelines for compliance audits and enforcement actions
212 pertaining to the advertising, promoting, or displaying for sale
213 single-use nicotine dispensing devices that have not received a
214 marketing granted order under 21 U.S.C. s. 387j. The rules shall
215 expressly authorize establishments that prohibit persons under
216 21 years of age on the licensed premises to sell disposable
217 nicotine dispensing devices that have not received a marketing
218 granted order under 21 U.S.C. s. 387j.

219 **Section 6. Subsections (3) and (4) of section 569.44,**
220 **Florida Statutes, are renumbered as subsections (4) and (5),**
221 **respectively, and a new subsection (3) is added to that section,**
222 **to read:**

223 569.44 Annual report.—The division shall report annually
224 with written findings to the Legislature and the Governor by
225 December 31 on the progress of implementing the enforcement

226 | provisions of this part. This must include, but is not limited
227 | to:

228 | (3) The number of dealers cited for violations of s.
229 | 569.37(3) for advertising, promoting, or displaying for sale a
230 | single-use nicotine dispensing device that has not received a
231 | marketing granted order under 21 U.S.C. s. 387j, as well as the
232 | penalties imposed as a result of the violation.

233 | **Section 7.** This act shall take effect July 1, 2025.