

By Senator Collins

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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 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

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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
33 timeframe following such a request; requiring dealers
34 to submit an application to the division for
35 conditional use or legally recognized nonconforming
36 use in specified circumstances; requiring dealers to
37 relocate following approval of such applications
38 within a specified period of timeframe; prohibiting
39 dealers that are required to relocate from being
40 deemed to be in breach of contract of any lease
41 agreement; amending s. 569.39, F.S.; requiring the
42 adoption of division rules to include specified
43 guidelines and authorizations; amending s. 569.44,
44 F.S.; revising annual report requirements; providing
45 an effective date.

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

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

51 Section 2. Section 569.33, Florida Statutes, is amended to
52 read:

53 569.33 Consent to inspection and search without warrant.—
54 An applicant for a retail nicotine products dealer permit or a
55 retail tobacco products dealer permit issued under s. 569.003,
56 by accepting the permit when issued, agrees that the place or
57 premises covered by the permit is subject to inspection and
58 search without a search warrant by the division or its

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59 authorized assistants, and by sheriffs, deputy sheriffs, or
60 police officers, to determine compliance with this part.

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

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

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

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

76 (b) For each violation involving the sale of a single-use
77 nicotine dispensing device that has not received a marketing
78 granted order under 21 U.S.C. s. 387j or involving the
79 advertising, promoting, or displaying for sale of such devices,
80 the division may impose the following penalties:

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

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

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88 products dealer permit.

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

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

102 (c) In addition to any administrative penalties authorized
103 under subparagraph (b)3., a dealer, or a dealer's agent or
104 employee, who commits a third or subsequent violation within 12
105 weeks after the previous violation commits a misdemeanor of the
106 second degree, punishable as provided in s. 775.082 or s.
107 775.083.

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

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

116 (a) Increase enforcement personnel.

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

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

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

126 569.37 Sale or delivery of nicotine products;
127 restrictions.—

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

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

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

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

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

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146 or outside of the dealer's licensed premises.

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

151 (6) (a) A dealer that derives more than 20 percent of its
152 gross monthly retail sales from the sale of nicotine products
153 may not be located within 500 feet of the real property that
154 comprises a public or private elementary school, middle school,
155 or secondary school. The required distance must be measured on a
156 straight line from the nearest property line of the retail shop
157 to the nearest property line of the school.

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

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

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175 verifying its sales for the period of time requested. Failure of
176 the dealer to provide a sales report when requested by the
177 division, or failure of the dealer to adequately demonstrate
178 that the business establishment has sold less than the required
179 percentage of nicotine products and nicotine dispensing devices,
180 is a violation of this section.

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

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

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204 premises within 180 days to a new location in compliance with
205 this subsection. A dealer that is required to relocate under
206 this subsection may not be deemed to be in breach of contract of
207 any lease agreement.

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

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

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

224 569.44 Annual report.—The division shall report annually
225 with written findings to the Legislature and the Governor by
226 December 31 on the progress of implementing the enforcement
227 provisions of this part. This must include, but is not limited
228 to:

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

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233 penalties imposed as a result of the violation.

234 Section 7. This act shall take effect July 1, 2025.