

1                                   A bill to be entitled  
2       An act relating to nicotine products; providing a  
3       short title; amending s. 569.33, F.S.; requiring the  
4       Division of Alcoholic Beverages and Tobacco to inspect  
5       on a regular basis the place or premises of certain  
6       retail nicotine products dealers for a specified  
7       purpose; providing that an applicant for a retail  
8       nicotine products dealer permit, by accepting the  
9       permit, agrees to such inspections; amending s.  
10      569.35, F.S.; authorizing the division to assess  
11      certain fines and penalties for violations involving  
12      the sale of certain nicotine dispensing devices, or  
13      the advertising, promoting, or displaying for sale  
14      such devices; requiring specified amounts of the fines  
15      collected by the division to be deposited in the  
16      Professional Regulation Trust Fund and the Department  
17      of Law Enforcement Operating Trust Fund; amending s.  
18      569.37, F.S.; prohibiting dealers of certain nicotine  
19      dispensing devices that do not prohibit individuals  
20      under 21 years of age on the licensed premises from  
21      advertising, promoting, or displaying for sale such  
22      devices in a specified manner; providing  
23      applicability; authorizing dealers of certain nicotine  
24      dispensing devices that prohibit individuals under 21  
25      years of age on the licensed premises to advertise,

26 promote, or display for sale such devices in a  
27 specified manner; amending s. 569.39, F.S.; revising  
28 the rulemaking authority of the division under the  
29 Beverage Law; amending s. 569.44, F.S.; revising the  
30 annual reporting requirement of the division under the  
31 Beverage Law to include the number of certain  
32 violations; providing an effective date.  
33

34 Be It Enacted by the Legislature of the State of Florida:  
35

36 **Section 1.** This act may be cited as the "Florida Age Gate  
37 Act."

38 **Section 2. Section 569.33, Florida Statutes, is amended to**  
39 **read:**

40 569.33 Consent to inspection and search without warrant.—

41 (1) (a) An applicant for a retail nicotine products dealer  
42 permit, by accepting the permit when issued, agrees that the  
43 place or premises covered by the permit is subject to inspection  
44 and search without a search warrant by the division or its  
45 authorized assistants, and by sheriffs, deputy sheriffs, or  
46 police officers, to determine compliance with this part.

47 (b) The division or its authorized assistants shall  
48 inspect on a regular basis the place or premises of a retail  
49 nicotine products dealer who advertises, promotes, or displays  
50 for sale a nicotine dispensing device that has not received a

51 marketing granted order under 21 U.S.C. s. 387j in order to  
52 determine compliance with this part.

53 (2) An applicant for a retail nicotine products dealer  
54 permit, by accepting the permit when issued, agrees that the  
55 place or premises covered by the permit is subject to inspection  
56 and search without a search warrant by the Department of Law  
57 Enforcement for any violation involving the advertisement,  
58 promotion, or display for sale of a nicotine dispensing device  
59 that has not received a marketing granted order under 21 U.S.C.  
60 s. 387j.

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

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

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

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

80            1. For a first violation, assess and accept an  
81        administrative fine in an amount not less than \$500, but no more  
82        than \$1,000, and shall order a dealer to take corrective action  
83        within 15 days after notice of the violation.

84            2. For a second violation, assess and accept an  
85        administrative fine in an amount not less than \$1,000, but no  
86        more than \$2,500, and shall suspend the dealer's permit for not  
87        more than 3 days.

88            3. For a third violation, assess and accept an  
89        administrative fine in an amount not less than \$2,500, but no  
90        more than \$5,000, and shall suspend the dealer's permit for not  
91        more than 30 days.

92            4. For a fourth violation, assess and accept an  
93        administrative fine in an amount not less than \$5,000, and shall  
94        suspend the dealer's permit for not more than 90 days.

95            5. For a fifth or subsequent violation, revoke the  
96        dealer's permit.

97  
98        One-half of the fines collected under this paragraph shall be  
99        deposited in the Professional Regulation Trust Fund, and the  
100       other half to the Department of Law Enforcement Operating Trust

Fund.

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

**Section 4. Section 569.37, Florida Statutes, is amended to read:**

569.37 Sale or delivery of nicotine products; restrictions.—

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

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

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

126 at a time.

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

130 (b) A dealer that sells nicotine products may not place  
131 such products or devices in an open display unit unless the unit  
132 is located in an area that is inaccessible to customers.

133 (3)(a)1. A dealer that sells a nicotine dispensing device  
134 that has not received a marketing granted order under 21 U.S.C.  
135 s. 387j, and that does not prohibit individuals under 21 years  
136 of age on the licensed premises, may not:

137 a. Advertise, promote, or display for sale such device.

138 b. Advertise, promote, or display for sale such device in  
139 an area visible to any person outside the licensed premises.

140 c. Advertise, promote, or display for sale such device  
141 inside the licensed premises in a manner visible to persons  
142 under 21 years of age, including, but not limited to, the  
143 placement of such a device in an open display unit visible to  
144 persons under 21 years of age.

145 2. Subparagraph 1. does not apply to a nicotine dispensing  
146 device that has received a marketing granted order under 21  
147 U.S.C. s. 387j, including:

148 a. Each stock keeping unit marketed by the manufacturer of  
149 such a device under the same brand family; and

150 b. A closed-system, replacement cartridge device designed

151 exclusively for use with a proprietary, reusable, and  
152 rechargeable device that has received a marketing granted order  
153 under 21 U.S.C. s. 387j, provided a dealer sells such device, or  
154 advertises, promotes, or displays for sale such device, in  
155 compliance with this section.

156 (b) A dealer that sells a nicotine dispensing device that  
157 has received a marketing granted order under 21 U.S.C. s. 387j,  
158 and that prohibits persons under 21 years of age on the licensed  
159 premises, may advertise, promote, or display for sale such  
160 device in areas visible to any person inside or outside the  
161 licensed premises.

162 (4)-(3) Notwithstanding subsections (1)-(3), this section  
163 does ~~The provisions of subsections (1) and (2) shall not apply~~  
164 ~~to an establishment that prohibits persons under 21 years of age~~  
165 ~~on the licensed premises.~~

166 (5)-(4) A dealer or a dealer's agent or employee must  
167 require proof of age of a purchaser of a nicotine product before  
168 selling the product to that person, unless the purchaser appears  
169 to be 30 years of age or older.

170 **Section 5. Section 569.39, Florida Statutes, is amended to**  
171 **read:**

172 569.39 Rulemaking authority.—The division shall adopt  
173 rules to administer and enforce this part. Such rules must  
174 include guidelines for compliance audits and enforcement actions  
175 relating to advertising, promoting, or displaying for sale

nicotine dispensing devices that have not received a marketing granted order under 21 U.S.C. s. 387j, and shall expressly authorize establishments that prohibit persons under 21 years of age on the licensed premises to sell single-use nicotine dispensing devices that have not received a marketing granted order under 21 U.S.C. s. 387j, consistent with s. 569.37.

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

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

(3) The number of violations of s. 569.37(3) for advertising, promoting, or displaying for sale a nicotine dispensing device that has not received a marketing granted order under 21 U.S.C. s. 387j, and any penalties imposed pursuant to s. 569.35(2).

**Section 7.** This act shall take effect July 1, 2026.