

1 A bill to be entitled

2 An act relating to nicotine dispensing devices;  
3 amending s. 569.002, F.S.; providing a definition;  
4 amending s. 569.0075, F.S.; prohibiting the gift of  
5 sample nicotine dispensing devices to persons under 18  
6 years of age; amending s. 569.101, F.S.; prohibiting  
7 the selling, delivering, bartering, furnishing, or  
8 giving of nicotine dispensing devices to persons under  
9 18 years of age, to which penalties apply; amending s.  
10 569.11, F.S.; prohibiting persons under 18 years of  
11 age from possessing, purchasing, or misrepresenting  
12 their age or military service to purchase nicotine  
13 dispensing devices; providing civil penalties;  
14 amending s. 569.14, F.S.; requiring certain signage  
15 where a dealer sells nicotine dispensing devices;  
16 amending s. 569.19, F.S.; requiring the Division of  
17 Alcoholic Beverages and Tobacco of the Department of  
18 Business and Professional Regulation to submit the  
19 number of violations for selling nicotine dispensing  
20 devices in its annual report; providing an effective  
21 date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Subsection (8) is added to section 569.002,  
26 Florida Statutes, to read:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

(8) "Nicotine dispensing devices" mean any product that can be used to deliver nicotine to an individual by inhaling vaporized nicotine from the product, including, but not limited to, electronic cigarettes and replacement nicotine cartridges for electronic cigarettes.

Section 2. Section 569.0075, Florida Statutes, is amended to read:

569.0075 Gift of sample tobacco products or sample nicotine dispensing devices prohibited.—The gift of sample tobacco products or sample nicotine dispensing devices to any person under the age of 18 by an entity licensed or permitted under the provisions of chapter 210 or this chapter, or by an employee of such entity, is prohibited and is punishable as provided in s. 569.101.

Section 3. Subsections (1) and (3) of section 569.101, Florida Statutes, are amended to read:

569.101 Selling, delivering, bartering, furnishing, or giving tobacco products or nicotine dispensing devices to persons under 18 years of age; criminal penalties; defense.—

(1) It is unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, to any person who is under 18 years of age, any tobacco product or nicotine dispensing device.

(3) A person charged with a violation of subsection (1) has a complete defense if, at the time the tobacco product or nicotine dispensing device was sold, delivered, bartered,

53 furnished, or given:

54 (a) The buyer or recipient falsely evidenced that she or  
55 he was 18 years of age or older;

56 (b) The appearance of the buyer or recipient was such that  
57 a prudent person would believe the buyer or recipient to be 18  
58 years of age or older; and

59 (c) Such person carefully checked a driver's license or an  
60 identification card issued by this state or another state of the  
61 United States, a passport, or a United States armed services  
62 identification card presented by the buyer or recipient and  
63 acted in good faith and in reliance upon the representation and  
64 appearance of the buyer or recipient in the belief that the  
65 buyer or recipient was 18 years of age or older.

66 Section 4. Subsections (1), (2), and (6) of section  
67 569.11, Florida Statutes, are amended to read:

68 569.11 Possession, misrepresenting age or military service  
69 to purchase, and purchase of tobacco products or nicotine  
70 dispensing devices by persons under 18 years of age prohibited;  
71 penalties; jurisdiction; disposition of fines.—

72 (1) It is unlawful for any person under 18 years of age to  
73 knowingly possess any tobacco product or nicotine dispensing  
74 device. Any person under 18 years of age who violates the  
75 provisions of this subsection commits a noncriminal violation as  
76 provided in s. 775.08(3), punishable by:

77 (a) For a first violation, 16 hours of community service  
78 or, instead of community service, a \$25 fine. In addition, the

79 person must attend a school-approved anti-tobacco and nicotine  
80 program, if locally available;

81 (b) For a second violation within 12 weeks of the first  
82 violation, a \$25 fine; or

83 (c) For a third or subsequent violation within 12 weeks of  
84 the first violation, the court must direct the Department of  
85 Highway Safety and Motor Vehicles to withhold issuance of or  
86 suspend or revoke the person's driver's license or driving  
87 privilege, as provided in s. 322.056.

88  
89 Any second or subsequent violation not within the 12-week time  
90 period after the first violation is punishable as provided for a  
91 first violation.

92 (2) It is unlawful for any person under 18 years of age to  
93 misrepresent his or her age or military service for the purpose  
94 of inducing a dealer or an agent or employee of the dealer to  
95 sell, give, barter, furnish, or deliver any tobacco product or  
96 nicotine dispensing device, or to purchase, or attempt to  
97 purchase, any tobacco product or nicotine dispensing device from  
98 a person or a vending machine. Any person under 18 years of age  
99 who violates a provision of this subsection commits a  
100 noncriminal violation as provided in s. 775.08(3), punishable  
101 by:

102 (a) For a first violation, 16 hours of community service  
103 or, instead of community service, a \$25 fine and, in addition,  
104 the person must attend a school-approved anti-tobacco and

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105 | nicotine program, if available;

106 |       (b) For a second violation within 12 weeks of the first  
107 | violation, a \$25 fine; or

108 |       (c) For a third or subsequent violation within 12 weeks of  
109 | the first violation, the court must direct the Department of  
110 | Highway Safety and Motor Vehicles to withhold issuance of or  
111 | suspend or revoke the person's driver's license or driving  
112 | privilege, as provided in s. 322.056.

113 |

114 | Any second or subsequent violation not within the 12-week time  
115 | period after the first violation is punishable as provided for a  
116 | first violation.

117 |       (6) Eighty percent of all civil penalties received by a  
118 | county court pursuant to this section shall be remitted by the  
119 | clerk of the court to the Department of Revenue for transfer to  
120 | the Department of Education to provide for teacher training and  
121 | for research and evaluation to reduce and prevent the use of  
122 | tobacco products or nicotine dispensing devices by children. The  
123 | remaining 20 percent of civil penalties received by a county  
124 | court pursuant to this section shall remain with the clerk of  
125 | the county court to cover administrative costs.

126 |       Section 5. Subsections (1), (2), and (3) of section  
127 | 569.14, Florida Statutes, are amended to read:

128 |       569.14 Posting of a sign stating that the sale of tobacco  
129 | products or nicotine dispensing devices to persons under 18  
130 | years of age is unlawful; enforcement; penalty.-

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(1) Any dealer that sells tobacco products or nicotine dispensing devices shall post a clear and conspicuous sign in each place of business where such products are sold which substantially states the following:

THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

(2) The division shall make available to dealers of tobacco products or nicotine dispensing devices signs that meet the requirements of subsection (1).

(3) Any dealer that sells tobacco products or nicotine dispensing devices shall provide at the checkout counter in a location clearly visible to the dealer, the dealer's agent or employee, instructional material in a calendar format or similar format to assist in determining whether a person is of legal age to purchase tobacco products or nicotine dispensing devices. This point of sale material must contain substantially the following language:

IF YOU WERE NOT BORN BEFORE THIS DATE

(insert date and applicable year)

YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.

Upon approval by the division, in lieu of a calendar a dealer may use card readers, scanners, or other electronic or automated systems that can verify whether a person is of legal age to purchase tobacco products or nicotine dispensing devices.

Failure to comply with the provisions contained in this

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subsection shall result in imposition of administrative penalties as provided in s. 569.006.

Section 6. Subsection (3) of section 569.19, Florida Statutes, is amended to read:

569.19 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 chapter. This must include, but is not limited to:

(3) The number of violations for selling tobacco products or nicotine dispensing devices to persons under age 18, and the results of administrative hearings on the above and related issues.

Section 7. This act shall take effect July 1, 2014.