

By the Committee on Regulated Industries; and Senators  
Benacquisto, Latvala, Sobel, and Flores

580-00643-14

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A bill to be entitled

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

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

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

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

580-00643-14

2014224c1

30 vaporized nicotine from the product, including, but not limited  
31 to, an electronic cigarette, electronic cigar, electronic  
32 cigarillo, electronic pipe, or other similar device or product  
33 and any replacement nicotine cartridge for the device or  
34 product.

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

37 569.0075 Gift of sample tobacco products or sample nicotine  
38 dispensing devices prohibited.—The gift of sample tobacco  
39 products or sample nicotine dispensing devices to any person  
40 under the age of 18 by an entity licensed or permitted under the  
41 provisions of chapter 210 or this chapter, or by an employee of  
42 such entity, is prohibited and is punishable as provided in s.  
43 569.101.

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

46 569.101 Selling, delivering, bartering, furnishing, or  
47 giving tobacco products or nicotine dispensing devices to  
48 persons under 18 years of age; criminal penalties; defense.—

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

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

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

58 (b) The appearance of the buyer or recipient was such that

580-00643-14

2014224c1

59 a prudent person would believe the buyer or recipient to be 18  
60 years of age or older; and

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

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

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

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

79 (a) For a first violation, 16 hours of community service  
80 or, instead of community service, a \$25 fine. In addition, the  
81 person must attend a school-approved anti-tobacco and nicotine  
82 program, if locally available;

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

85 (c) For a third or subsequent violation within 12 weeks of  
86 the first violation, the court must direct the Department of  
87 Highway Safety and Motor Vehicles to withhold issuance of or

580-00643-14

2014224c1

88 suspend or revoke the person's driver's license or driving  
89 privilege, as provided in s. 322.056.

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

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

104 (a) For a first violation, 16 hours of community service  
105 or, instead of community service, a \$25 fine and, in addition,  
106 the person must attend a school-approved anti-tobacco and  
107 nicotine program, if available;

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

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

115  
116 Any second or subsequent violation not within the 12-week time

580-00643-14

2014224c1

period after the first violation is punishable as provided for a first violation.

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

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

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

(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

580-00643-14

2014224c1

146 dispensing devices shall provide at the checkout counter in a  
147 location clearly visible to the dealer, the dealer's agent or  
148 employee, instructional material in a calendar format or similar  
149 format to assist in determining whether a person is of legal age  
150 to purchase tobacco products or nicotine dispensing devices.  
151 This point of sale material must contain substantially the  
152 following language:

154 IF YOU WERE NOT BORN BEFORE THIS DATE

155 (insert date and applicable year)

156 YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.

157  
158 Upon approval by the division, in lieu of a calendar a dealer  
159 may use card readers, scanners, or other electronic or automated  
160 systems that can verify whether a person is of legal age to  
161 purchase tobacco products or nicotine dispensing devices.  
162 Failure to comply with the provisions contained in this  
163 subsection shall result in imposition of administrative  
164 penalties as provided in s. 569.006.

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

167 569.19 Annual report.—The division shall report annually  
168 with written findings to the Legislature and the Governor by  
169 December 31, on the progress of implementing the enforcement  
170 provisions of this chapter. This must include, but is not  
171 limited to:

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

580-00643-14

2014224c1

175 issues.

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