

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Government Operations  
 2 Appropriations Subcommittee  
 3 Representative Renuart offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 569.14, Florida Statutes, is amended to  
 8 read:

9 569.14 Posting of a sign stating that the sale of tobacco  
 10 products to persons under 18 years of age is unlawful;  
 11 enforcement; penalty.-

12 (1) A ~~Any~~ dealer that sells tobacco products shall post a  
 13 clear and conspicuous sign in each place of business where such  
 14 products are sold which substantially states the following:

15 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 18 IS  
 16 AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

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17 (2) A dealer that sells tobacco products and nicotine  
18 dispensing devices or nicotine products, as defined in s.  
19 877.112, may use a sign that substantially states the following:

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

23 A dealer that uses a sign substantially the same as described in  
24 this subsection meets the signage requirements of both ss.  
25 569.14(1) and 877.112.

26 (3)~~(2)~~ The division shall make available to dealers of  
27 tobacco products signs that meet the requirements of subsection  
28 (1). Alternatively, the division may make available to dealers  
29 of tobacco products signs that meet the requirements of  
30 subsection (2).

31 (4)~~(3)~~ Any dealer that sells tobacco products shall provide  
32 at the checkout counter in a location clearly visible to the  
33 dealer, the dealer's agent or employee, instructional material  
34 in a calendar format or similar format to assist in determining  
35 whether a person is of legal age to purchase tobacco products.  
36 This point of sale material must contain substantially the  
37 following language:

38 IF YOU WERE NOT BORN BEFORE THIS DATE

39 (insert date and applicable year)

40 YOU CANNOT BUY TOBACCO PRODUCTS.

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41 Upon approval by the division, in lieu of a calendar a dealer  
42 may use card readers, scanners, or other electronic or automated  
43 systems that can verify whether a person is of legal age to  
44 purchase tobacco products. Failure to comply with the provisions  
45 contained in this subsection shall result in imposition of  
46 administrative penalties as provided in s. 569.006.

47 ~~(5)-(4)~~ The division, through its agents and inspectors,  
48 shall enforce this section.

49 ~~(6)-(5)~~ Any person who fails to comply with subsection (1)  
50 is guilty of a misdemeanor of the second degree, punishable as  
51 provided in s. 775.082 or s. 775.083.

52 (7) REGULATION OF TOBACCO PRODUCTS PREEMPTED TO STATE- This  
53 part expressly preempts regulation of products and activities,  
54 covered by this chapter to the state and supersedes any  
55 municipal or county ordinance on the subject.

56 Section 2. Section 877.112, Florida Statutes, is created  
57 to read:

58 877.112 Nicotine and Devices for Delivering Nicotine,  
59 Definitions, Prohibitions of Sale, Penalties, Sign  
60 Requirements.-

61 (1) As used in this section, the term:

62 (a) "Nicotine Product" means any product that is not a  
63 tobacco product defined in ch. 569, F.S., which contains  
64 nicotine, including liquid nicotine, which can be used for  
65 smoking, sniffing, inhaling, ingesting, or chewing. Nicotine  
66 products are only products containing nicotine derived from the

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67 tobacco plant, and do not include products that have incidental  
68 nicotine in them derived from other natural sources.

69 (b) "Nicotine Dispensing Device" means any product that can  
70 be used to deliver nicotine to an individual by inhaling  
71 vaporized nicotine from the product, including, but not limited  
72 to, an electronic cigarette, electronic cigar, electronic  
73 cigarillo, electronic pipe, or other similar device or product  
74 and any replacement nicotine cartridge for the device or  
75 product.

76 (2) PROHIBITIONS ON SALE TO MINORS.- It is unlawful to  
77 sell, deliver, barter, furnish, or give, directly or indirectly,  
78 to any person who is under 18 years of age, any nicotine product  
79 or a nicotine dispensing device.

80 (3) PROHIBITIONS ON GIFTING SAMPLES TO MINORS.- The gift of  
81 a sample nicotine product or nicotine dispensing device to any  
82 person under the age of 18 by a retailer, or by an employee of  
83 such retailer, is prohibited.

84 (4) PENALTIES.- Any person who violates subsection (2) or  
85 (3) commits a misdemeanor of the second degree, punishable as  
86 provided in s. 775.082 or s. 775.083. However, any person who  
87 violates subsection (2) or (3) for a second or subsequent time  
88 within 1 year of the first violation, commits a misdemeanor of  
89 the first degree, punishable as provided in s. 775.082 or s.  
90 775.083.

91 (5) AFFIRMATIVE DEFENSES.- A person charged with a  
92 violation of subsection (2) or (3) has a complete defense if, at

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93 the time the nicotine product or nicotine dispensing device was  
94 sold, delivered, bartered, furnished, or given:

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

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

100 (c) Such person carefully checked a driver license or an  
101 identification card issued by this state or another state of the  
102 United States, a passport, or a United States armed services  
103 identification card presented by the buyer or recipient and  
104 acted in good faith and in reliance upon the representation and  
105 appearance of the buyer or recipient in the belief that the  
106 buyer or recipient was 18 years of age or older.

107 (6) PROHIBITIONS ON POSSESSION OF NICOTINE PRODUCTS OR  
108 NICOTINE DISPENSING DEVICES BY MINORS.- It is unlawful for any  
109 person under 18 years of age to knowingly possess any nicotine  
110 product or a nicotine dispensing device. Any person under 18  
111 years of age who violates this subsection commits a noncriminal  
112 violation as defined in s. 775.08(3), punishable by:

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

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

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

124  
125 Any second or subsequent violation not within the 12-week time  
126 period after the first violation is punishable as provided for a  
127 first violation.

128 (7) PROHIBITION ON MISREPRESENTING AGE.- It is unlawful for  
129 any person under 18 years of age to misrepresent his or her age  
130 or military service for the purpose of inducing a retailer or an  
131 agent or employee of the retailer to sell, give, barter,  
132 furnish, or deliver any nicotine product or nicotine dispensing  
133 device, or to purchase, or attempt to purchase, any nicotine  
134 product or nicotine dispensing device from a person or a vending  
135 machine. Any person under 18 years of age who violates this  
136 subsection commits a noncriminal violation as defined in s.  
137 775.08(3), punishable by:

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

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

144 (c) For a third or subsequent violation within 12 weeks of

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145 the first violation, the court must direct the Department of  
146 Highway Safety and Motor Vehicles to withhold issuance of or  
147 suspend or revoke the person's driver license or driving  
148 privilege, as provided in s. 322.056.

149  
150 Any second or subsequent violation not within the 12-week time  
151 period after the first violation is punishable as provided for a  
152 first violation.

153 (8) PENALTIES FOR MINORS.-

154 (a) A person under 18 years of age cited for committing a  
155 noncriminal violation under this section must sign and accept a  
156 civil citation indicating a promise to appear before the county  
157 court or comply with the requirement for paying the fine and  
158 must attend a school-approved anti-tobacco and nicotine program,  
159 if locally available. If a fine is assessed for a violation of  
160 this section, the fine must be paid within 30 days after the  
161 date of the citation or, if a court appearance is mandatory,  
162 within 30 days after the date of the hearing.

163 (b) A person charged with a noncriminal violation under  
164 this section must appear before the county court or comply with  
165 the requirement for paying the fine. The court, after a hearing,  
166 shall make a determination as to whether the noncriminal  
167 violation was committed. If the court finds the violation was  
168 committed, it shall impose an appropriate penalty as specified  
169 in subsection (6) or subsection (7). A person who participates  
170 in community service shall be considered an employee of the

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171 state for the purpose of chapter 440, for the duration of such  
172 service.

173 (c) If a person under 18 years of age is found by the court  
174 to have committed a noncriminal violation under this section and  
175 that person has failed to complete community service, pay the  
176 fine as required by paragraph (6) (a) or paragraph (7) (a), or  
177 attend a school-approved anti-tobacco and nicotine program, if  
178 locally available, the court must direct the Department of  
179 Highway Safety and Motor Vehicles to withhold issuance of or  
180 suspend the driver license or driving privilege of that person  
181 for 30 consecutive days.

182 (d) If a person under 18 years of age is found by the court  
183 to have committed a noncriminal violation under this section and  
184 that person has failed to pay the applicable fine as required by  
185 paragraph (6) (b) or paragraph (7) (b), the court must direct the  
186 Department of Highway Safety and Motor Vehicles to withhold  
187 issuance of or suspend the driver license or driving privilege  
188 of that person for 45 consecutive days.

189 (9) DISTRIBUTION OF CIVIL FINES - Eighty percent of all  
190 civil penalties received by a county court pursuant to  
191 subsections (6) and (7) shall be remitted by the clerk of the  
192 court to the Department of Revenue for transfer to the  
193 Department of Education to provide for teacher training and for  
194 research and evaluation to reduce and prevent the use of tobacco  
195 products, nicotine products, or nicotine dispensing devices by  
196 children. The remaining 20 percent of civil penalties received

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197 by a county court pursuant to this section shall remain with the  
198 clerk of the county court to cover administrative costs.

199 (10) SIGNAGE REQUIREMENTS FOR NICOTINE PRODUCTS AND  
200 NICOTINE DISPENSING DEVICE RETAILERS.-

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

205  
206 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING DEVICES TO  
207 PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE  
208 IS REQUIRED FOR PURCHASE.

209 (b) A retailer that sells nicotine products or nicotine  
210 dispensing devices shall provide at the checkout counter in a  
211 location clearly visible to the retailer, the retailer's agent  
212 or employee, instructional material in a calendar format or  
213 similar format to assist in determining whether a person is of  
214 legal age to purchase nicotine products or nicotine dispensing  
215 devices. This point of sale material must contain substantially  
216 the following language:

217  
218 IF YOU WERE NOT BORN BEFORE THIS DATE  
219 (insert date and applicable year)  
220 YOU CANNOT BUY NICOTINE PRODUCTS OR NICOTINE DISPENSING DEVICES.

221  
222 In lieu of a calendar a retailer may use card readers, scanners,

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223 or other electronic or automated systems that can verify whether  
224 a person is of legal age to purchase nicotine products or  
225 nicotine dispensing devices.

226 (11) REGULATION OF NICOTINE PRODUCTS PREEMPTED TO STATE-  
227 This part expressly preempts regulation of products and  
228 activities, covered by this chapter to the state and supersedes  
229 any municipal or county ordinance on the subject.

230 Section 3. This act shall take effect July 1, 2014.

231

232

233 -----

234 **T I T L E A M E N D M E N T**

235 Remove everything before the enacting clause and insert:

236 A bill to be entitled

237 An act relating to nicotine products and nicotine dispensing  
238 devices; amending s. 569.14, F.S.; allowing alternate signage  
239 requirements where a tobacco dealer also sells nicotine products  
240 or nicotine dispensing devices; creating s. 877.112, F.S.;  
241 defining the terms "nicotine products" and "nicotine dispensing  
242 devices"; prohibiting the selling, delivering, bartering,  
243 furnishing, or giving of nicotine products or nicotine  
244 dispensing devices to persons under 18 years of age; prohibiting  
245 the gift of sample nicotine products or nicotine dispensing  
246 devices to persons under 18 years of age; providing penalties;  
247 prohibiting a person under 18 years of age from possessing,  
248 purchasing, or misrepresenting his or her age or military

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 169 (2014)

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249 service to purchase nicotine products or nicotine dispensing  
250 devices; requiring certain signage where a retailer sells  
251 nicotine products or nicotine dispensing devices; providing an  
252 effective date.