

By the Committees on Appropriations; and Regulated Industries; and Senators Benacquisto, Latvala, Sobel, Flores, Gibson, Bradley, Dean, and Braynon

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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; reenacting and amending
21 s. 322.056(2) and (3), F.S., relating to mandatory
22 driver license revocation or suspension for persons
23 younger than 18 years of age who commit certain
24 offenses, to incorporate the amendments to s. 569.11,
25 F.S., in a reference thereto; making editorial
26 changes; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsection (8) is added to section 569.002,
31 Florida Statutes, to read:

32 569.002 Definitions.—As used in this chapter, the term:

33 (8) "Nicotine dispensing devices" means any product that
34 can be used to deliver nicotine to an individual by inhaling
35 vaporized nicotine from the product, including, but not limited
36 to, an electronic cigarette, electronic cigar, electronic
37 cigarillo, electronic pipe, or other similar device or product
38 and any replacement nicotine cartridge for the device or
39 product.

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

42 569.0075 Gift of sample tobacco products or sample nicotine
43 dispensing devices prohibited.—The gift of sample tobacco
44 products or sample nicotine dispensing devices to any person
45 under the age of 18 by an entity licensed or permitted under the
46 provisions of chapter 210 or this chapter, or by an employee of
47 such entity, is prohibited and is punishable as provided in s.
48 569.101.

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

51 569.101 Selling, delivering, bartering, furnishing, or
52 giving tobacco products or nicotine dispensing devices to
53 persons under 18 years of age; criminal penalties; defense.—

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

57 (3) A person charged with a violation of subsection (1) has
58 a complete defense if, at the time the tobacco product or

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59 nicotine dispensing device was sold, delivered, bartered,
60 furnished, or given:

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

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

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

73 Section 4. Subsections (1), (2), (5), and (6) of section
74 569.11, Florida Statutes, are amended to read:

75 569.11 Possession, misrepresenting age or military service
76 to purchase, and purchase of tobacco products or nicotine
77 dispensing devices by persons under 18 years of age prohibited;
78 penalties; jurisdiction; disposition of fines.—

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

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

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

90 (c) For a third or subsequent violation within 12 weeks of
91 the first violation, the court must direct the Department of
92 Highway Safety and Motor Vehicles to withhold issuance of or
93 suspend or revoke the person's driver ~~driver's~~ license or
94 driving privilege, as provided in s. 322.056.

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96 Any second or subsequent violation not within the 12-week time
97 period after the first violation is punishable as provided for a
98 first violation.

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

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

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

115 (c) For a third or subsequent violation within 12 weeks of
116 the first violation, the court must direct the Department of

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117 Highway Safety and Motor Vehicles to withhold issuance of or
118 suspend or revoke the person's driver ~~driver's~~ license or
119 driving privilege, as provided in s. 322.056.

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121 Any second or subsequent violation not within the 12-week time
122 period after the first violation is punishable as provided for a
123 first violation.

124 (5) (a) If a person under 18 years of age is found by the
125 court to have committed a noncriminal violation under this
126 section and that person has failed to complete community
127 service, pay the fine as required by paragraph (1) (a) or
128 paragraph (2) (a), or attend a school-approved anti-tobacco
129 program, if locally available, the court must direct the
130 Department of Highway Safety and Motor Vehicles to withhold
131 issuance of or suspend the driver ~~driver's~~ license or driving
132 privilege of that person for ~~a period of~~ 30 consecutive days.

133 (b) If a person under 18 years of age is found by the court
134 to have committed a noncriminal violation under this section and
135 that person has failed to pay the applicable fine as required by
136 paragraph (1) (b) or paragraph (2) (b), the court must direct the
137 Department of Highway Safety and Motor Vehicles to withhold
138 issuance of or suspend the driver ~~driver's~~ license or driving
139 privilege of that person for ~~a period of~~ 45 consecutive days.

140 (6) Eighty percent of all civil penalties received by a
141 county court pursuant to this section shall be remitted by the
142 clerk of the court to the Department of Revenue for transfer to
143 the Department of Education to provide for teacher training and
144 for research and evaluation to reduce and prevent the use of
145 tobacco products or nicotine dispensing devices by children. The

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146 remaining 20 percent of civil penalties received by a county
147 court pursuant to this section shall remain with the clerk of
148 the county court to cover administrative costs.

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

151 569.14 Posting of a sign stating that the sale of tobacco
152 products or nicotine dispensing devices to persons under 18
153 years of age is unlawful; enforcement; penalty.-

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

158
159 THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO
160 PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE
161 IS REQUIRED FOR PURCHASE.

162
163 (2) The division shall make available to dealers of tobacco
164 products or nicotine dispensing devices signs that meet the
165 requirements of subsection (1).

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

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175 IF YOU WERE NOT BORN BEFORE THIS DATE
176 (insert date and applicable year)
177 YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.
178

179 Upon approval by the division, in lieu of a calendar a dealer
180 may use card readers, scanners, or other electronic or automated
181 systems that can verify whether a person is of legal age to
182 purchase tobacco products or nicotine dispensing devices.
183 Failure to comply with the provisions contained in this
184 subsection shall result in imposition of administrative
185 penalties as provided in s. 569.006.

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

188 569.19 Annual report.—The division shall report annually
189 with written findings to the Legislature and the Governor by
190 December 31, on the progress of implementing the enforcement
191 provisions of this chapter. This must include, but is not
192 limited to:

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

197 Section 7. For the purpose of incorporating the amendments
198 made by this act to section 569.11, Florida Statutes, in a
199 reference thereto, subsections (2) and (3) of section 322.056,
200 Florida Statutes, are reenacted and amended to read:

201 322.056 Mandatory revocation or suspension of, or delay of
202 eligibility for, driver ~~driver's~~ license for persons under age
203 18 found guilty of certain alcohol, drug, or tobacco offenses;

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204 prohibition.—

205 (2) If a person under 18 years of age is found by the court
206 to have committed a noncriminal violation under s. 569.11 and
207 that person has failed to comply with the procedures established
208 in that section by failing to fulfill community service
209 requirements, failing to pay the applicable fine, or failing to
210 attend a locally available school-approved anti-tobacco program,
211 and:

212 (a) The person is eligible by reason of age for a driver
213 ~~driver's~~ license or driving privilege, the court shall direct
214 the department to revoke or to withhold issuance of his or her
215 driver ~~driver's~~ license or driving privilege as follows:

- 216 1. For the first violation, for 30 days.
- 217 2. For the second violation within 12 weeks of the first
218 violation, for 45 days.

219 (b) The person's driver ~~driver's~~ license or driving
220 privilege is under suspension or revocation for any reason, the
221 court shall direct the department to extend the period of
222 suspension or revocation by an additional period as follows:

- 223 1. For the first violation, for 30 days.
- 224 2. For the second violation within 12 weeks of the first
225 violation, for 45 days.

226 (c) The person is ineligible by reason of age for a driver
227 ~~driver's~~ license or driving privilege, the court shall direct
228 the department to withhold issuance of his or her driver
229 ~~driver's~~ license or driving privilege as follows:

- 230 1. For the first violation, for 30 days.
- 231 2. For the second violation within 12 weeks of the first
232 violation, for 45 days.

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234 Any second violation of s. 569.11 not within the 12-week period
235 after the first violation will be treated as a first violation
236 and in the same manner as provided in this subsection.

237 (3) If a person under 18 years of age is found by the court
238 to have committed a third violation of s. 569.11 within 12 weeks
239 of the first violation, the court must direct the Department of
240 Highway Safety and Motor Vehicles to suspend or withhold
241 issuance of his or her driver ~~driver's~~ license or driving
242 privilege for 60 consecutive days. Any third violation of s.
243 569.11 not within the 12-week period after the first violation
244 will be treated as a first violation and in the same manner as
245 provided in subsection (2).

246 Section 8. This act shall take effect July 1, 2014.