A bill to be entitled
An act relating to tobacco and nicotine products;
providing a short title; amending s. 210.095, F.S.;
deleting and redefining terms; defining the terms
“distributor” and “electronic smoking device”;
restricting delivery sales of tobacco products to
certain entities; prohibiting delivery sales directly
to unlicensed persons; prohibiting a person from
aiding or assisting another person in certain
violations; conforming provisions to changes made by
the act; amending s. 386.212, F.S.; deleting age and
time restrictions relating to the prohibition of
smoking and vaping near school property; amending s.
569.002, F.S.; defining the term “electronic smoking
device”; revising the definition of the term “tobacco
products” to include additional products; replacing
the term “any person under the age of 18” with “any
person under the age of 21”; revising exemptions;
amending s. 569.003, F.S.; conforming provisions to
changes made by the act; revising the conditions under
which the Division of Alcoholic Beverages and Tobacco
may refuse to issue retail tobacco products dealer
permits; exempting certain entities from fees
associated with such permits; amending s. 569.005,
F.S.; revising the fines for certain noncriminal
violations; amending s. 569.006, F.S.; requiring
revenues from certain fines to be used for specified
purposes; requiring the division to deposit such
revenues in the Alcoholic Beverage and Tobacco Trust
Fund rather than the General Revenue Fund; amending s. 569.007, F.S.; revising the age limitation of persons to whom it is unlawful to sell or deliver tobacco products; revising the conditions under which sales of tobacco products from a vending machine are authorized; requiring a dealer or a dealer’s agent to require proof of age of tobacco product purchasers; amending s. 569.0075, F.S.; revising the age under which the gift of sample tobacco products to a person by certain entities is prohibited; amending s. 569.008, F.S.; revising legislative intent to reflect that the Legislature intends to prevent the sale of tobacco products to persons under a specified age; conforming provisions to changes made by the act; deleting an authorization for the division to mitigate penalties imposed against a dealer for certain violations; revising what constitutes prima facie evidence of a lack of due diligence by a dealer under certain circumstances; amending s. 569.101, F.S.; revising the age limitation that applies to the sale, delivery, bartering, furnishing, or giving of tobacco products; conforming provisions to changes made by the act; revising civil penalties; deleting criminal penalties; revising the elements of a complete defense for violations relating to selling, delivering, bartering, furnishing, or giving tobacco products to persons under a specified age; amending s. 569.11, F.S.; deleting a provision that prohibits persons under a specified age from possessing a tobacco
Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the “Tobacco 21 Act.”

Section 2. Section 210.095, Florida Statutes, is amended to read:

210.095 Mail order, Internet, and remote sales of tobacco products; age verification.—

(1) For purposes of this section, the term:

(a) “Adult” means an individual who is at least of the legal minimum purchase age for tobacco products.

(b) “Consumer” means a person in this state who comes into possession of any tobacco product subject to the tax imposed by
this chapter and who, at the time of possession, is not a distributor intending to sell or distribute the tobacco product, a retailer, or a wholesaler.

(a)(c) “Delivery sale” means any sale of tobacco products to a retailer, wholesale dealer, distributing agent, distributor, importer, or exporter consumer in this state for which:

1. The retailer, wholesale dealer, distributing agent, distributor, importer, or exporter consumer submits the order for the sale by telephonic or other voice transmission, mail, delivery service, or the Internet or other online service; or
2. The tobacco products are delivered by use of mail or a delivery service.

(b)(d) “Delivery service” means any person engaged in the commercial delivery of letters, packages, or other containers.

c) “Distributor” has the same meaning as in s. 210.25.

d) “Electronic smoking device” has the same meaning as in s. 569.002.

e) “Legal minimum purchase age” means the minimum age at which an individual may legally purchase tobacco products in this state.

(f) “Mail” or “mailing” means the shipment of tobacco products through the United States Postal Service.

(e)(g) “Retailer” means any person engaged in the business of selling tobacco products to ultimate consumers who is not a licensed distributor but who is in possession of tobacco products subject to tax under this chapter for the purposes of selling the tobacco products to consumers.

(h) “Shipping container” means a container in which tobacco
products are shipped in connection with a delivery sale.

(i) “Shipping document” means a bill of lading, airbill, United States Postal Service form, or any other document used to verify the undertaking by a delivery service to deliver letters, packages, or other containers.

(f) “Tobacco products” has the same meaning as in s. 569.002 means all cigarettes, smoking tobacco, snuff, fine cut chewing tobacco, cut and granulated tobacco, cavendish, and plug or twist tobacco.

(2) Licensed retailers, licensed wholesale dealers, licensed distributing agents, licensed distributors, licensed importers, and licensed exporters may accept delivery sales of tobacco products in this state. Delivery sales directly to unlicensed persons are prohibited.

(3) A person may not, with knowledge or reason to know of the violation, aid or assist another person in a violation of this section.

(a) A sale of tobacco products constituting a delivery sale pursuant to paragraph (1)(c) is a delivery sale regardless of whether the person accepting the order for the delivery sale is located inside or outside this state.

(b) A retailer must obtain a license from the division pursuant to the requirements of this chapter before accepting an order for a delivery sale.

(c) A person may not make a delivery sale of tobacco products to any individual who is not an adult.

(d) Each person accepting an order for a delivery sale must comply with each of the following:

1. The age-verification requirements set forth in
subsection (3).

2. The disclosure requirements set forth in subsection (4).
3. The shipping requirements set forth in subsection (5).
4. The registration and reporting requirements set forth in subsection (6).
5. The tax collection requirements set forth in subsection (7).
6. The licensing and tax stamp requirements set forth in this chapter which apply to sales of tobacco products occurring entirely in this state.
7. All laws of this state generally applicable to sales of tobacco products occurring entirely in this state which impose excise taxes and assessments.

(3) A person may not mail, ship, or otherwise deliver tobacco products in connection with an order for a delivery sale unless, before the first delivery to the consumer, the person accepting the order for the delivery sale:

(a) Obtains from the individual submitting the order a certification that includes:

1. Reliable confirmation that the individual is an adult; and
2. A statement signed by the individual in writing and under penalty of perjury which:
   a. Certifies the address and date of birth of the individual; and
   b. Confirms that the individual wants to receive delivery sales from a tobacco company and understands that, under the laws of this state, the following actions are illegal:
      (I) Signing another individual’s name to the certification;
(II) Selling tobacco products to individuals under the legal minimum purchase age; and

(III) Purchasing tobacco products, if the person making the purchase is under the legal minimum purchase age.

(b) Makes a good faith effort to verify the information contained in the certification provided by the individual pursuant to paragraph (a) against a commercially available database that may be reasonably relied upon for accurate age information or obtains a photocopy or other image of a valid government-issued identification card stating the date of birth or age of the individual.

(c) Provides to the individual, via electronic mail or other means, a notice meeting the requirements of subsection (4).

(d) If an order for tobacco products is made pursuant to an advertisement on the Internet, receives payment for the delivery sale from the consumer by a credit or debit card issued in the name of the consumer, or by personal or company check of the consumer.

(e) Imposes a two-carton minimum on each order of cigarettes, and requires payment for the purchase of any tobacco product to be made by personal or company check of the purchaser or the purchaser’s credit card or debit card. Payment by money order or cash may not be received or permitted. The person accepting the order for delivery sale shall submit, to each credit card acquiring company with which the person has credit card sales, identification information in an appropriate form and format so that the words “tobacco product” may be printed in the purchaser’s credit card statement when a purchase of a...
tobacco product is made by credit card payment.

(f) Makes a telephone call after 5 p.m. to the purchaser confirming the order before shipping the tobacco products. The telephone call may be a person-to-person call or a recorded message. The person accepting the order for delivery sale is not required to speak directly with a person and may leave a message on an answering machine or through voice mail.

In addition to the requirements of this subsection, a person accepting an order for a delivery sale may request that a consumer provide an electronic mail address.

(4) The notice described in paragraph (3)(c) must include prominent and clearly legible statements that sales of tobacco products are:

(a) Illegal if made to individuals who are not adults.

(b) Restricted to those individuals who provide verifiable proof of age in accordance with subsection (3).

(c) Taxable under this chapter.

The notice must include an explanation of how each tax has been, or is to be, paid with respect to the delivery sale.

(5) Each person who mails, ships, or otherwise delivers tobacco products in connection with an order for a delivery sale must:

(a) Include as part of the shipping documents, in a clear and conspicuous manner, the following statement: “Tobacco Products: Florida law prohibits shipping to individuals under 18 years of age and requires the payment of all applicable taxes.”

(b) Use a method of mailing, shipping, or delivery which obligates the delivery service to require:
1. The individual submitting the order for the delivery sale or another adult who resides at the individual’s address to sign his or her name to accept delivery of the shipping container. Proof of the legal minimum purchase age of the individual accepting delivery is required only if the individual appears to be under 27 years of age.

2. Proof that the individual is either the addressee or the adult designated by the addressee, in the form of a valid, government-issued identification card bearing a photograph of the individual who signs to accept delivery of the shipping container.

   (c) Provide to the delivery service, if such service is used, evidence of full compliance with subsection (7).

If the person accepting a purchase order for a delivery sale delivers the tobacco products without using a delivery service, the person must comply with all of the requirements of this section which apply to a delivery service. Any failure to comply with a requirement of this section constitutes a violation thereof.

   (6)(a) Before making sales or shipping tobacco products in connection with sales, a person shall file with the division a statement providing the person’s name, trade name, and the address of the person’s principal place of business, as well as any other place of business.

   (b) No later than the 10th day of each month, each person who has made a sale or mailed, shipped, or otherwise delivered tobacco products in connection with any sale during the previous calendar month shall file with the division a memorandum or a
copy of the invoice, providing for each sale:

1. The name and address of the individual who submitted the order for the sale.

2. The name and address of the individual who accepted delivery of the tobacco products.

3. The name and address of the person who accepted the order for the sale of the tobacco products.

4. The name and address of the delivery service and the name of the individual making the delivery.

5. The brand or brands of the tobacco products sold in the sale.

6. The quantity of each brand of tobacco products sold in the sale.

(c) A person may comply with the requirements of this subsection by complying with the requirements of 15 U.S.C. s. 376.

(d) This section does not apply to sales of tobacco products by a licensed distributor or to sales of tobacco products by a retailer purchased from a licensed distributor.

(7) Each person accepting a purchase order for a delivery sale shall collect and remit to the division all taxes imposed on tobacco products by this state with respect to the delivery sale. With respect to cigarettes, the collection and remission are not required if the person has obtained proof in the form of the presence of applicable tax stamps or tax-exempt stamps, or other proof that the taxes have already been paid to this state.

(4)(8)(a) Except as otherwise provided in this section, a violation of this section by a person other than an individual who is not an adult is a misdemeanor of the first degree,
punishable as provided in s. 775.082 or s. 775.083, and:

1. For a first violation of this section, the person shall be fined $1,000 or five times the retail value of the tobacco products involved in the violation, whichever is greater.

2. For a second or subsequent violation of this section, the person shall be fined $5,000 or five times the retail value of the tobacco products involved in the violation, whichever is greater.

(b) A person who is an adult and knowingly submits a false certification under subsection (3) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For each offense, the person shall be fined $10,000 or five times the retail value of the tobacco products involved in the violation, whichever is greater.

(c) A person who fails to pay any tax required in connection with a delivery sale shall pay, in addition to any other penalty, a penalty of five times the retail value of the tobacco products involved.

(d) Any tobacco products sold or attempted to be sold in a delivery sale not meeting the requirements of this section shall be forfeited to the state pursuant to s. 210.185.

(e) A person who, in connection with a delivery sale, delivers tobacco products on behalf of a delivery service to an individual who is not an adult commits a misdemeanor of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(f) Any fixture, equipment, or other material or personal property on the premises of any person who, with the
intent to defraud this state, mails or ships tobacco products
into this state and fails to satisfy any of the requirements of
this section is a contraband article within the definition of s.
932.701(2)(a)3.

(g) An individual who is not an adult and who knowingly
violates any provision of this section commits a misdemeanor of
the third degree, punishable as provided in s. 775.082 or s.
775.083.

(5)(9) The Attorney General, the Attorney General’s
designee, a state attorney, or any person who holds a permit
under 26 U.S.C. s. 5713 may bring an action in the appropriate
court in this state to prevent or restrain violations of this
section by any person.

Section 3. Subsection (1) of section 386.212, Florida
Statutes, is amended to read:

386.212 Smoking and vaping prohibited near school property;
penalty.—

(1) It is unlawful for any person under 18 years of age to
smoke tobacco or vape in, on, or within 1,000 feet of the real
property comprising a public or private elementary, middle, or
secondary school between the hours of 6 a.m. and midnight. This
section does not apply to any person occupying a moving vehicle
or within a private residence.

Section 4. Present subsections (1), (2), and (3) through
(6) of section 569.002, Florida Statutes, are redesignated as
subsections (2), (3), and (5) through (8), respectively, a new
subsection (4) is added to that section, and present subsections
(6) and (7) are amended, to read:

569.002 Definitions.—As used in this chapter, the term:
(4) “Electronic smoking device” means any device that may
be used to deliver any aerosolized or vaporized substance to the
person inhaling from the device, including, but not limited to,
an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. The term
includes any component, part, or accessory of the device and
also includes any substance intended to be aerosolized or
vaporized during the use of the device, whether or not the
substance contains nicotine.

The term does not include drugs, devices, or combination
products authorized for sale by the U.S. Food and Drug
Administration, as those terms are defined in the Federal Food,
Drug, and Cosmetic Act.

(8) (6) “Tobacco products” includes:
(a) Any product containing, made of, or derived from
tobacco or nicotine that is intended for human consumption or is
likely to be consumed, whether inhaled, absorbed, or ingested by
any other means, including, but not limited to, a cigarette, a
cigar, pipe tobacco, chewing tobacco, snuff, or snus;
(b) Any electronic smoking device and any substances that
may be aerosolized or vaporized by such device, whether or not
the substance contains nicotine; or
(c) Any component, part, or accessory of a product
described in paragraph (a) or paragraph (b), whether or not any
of these contain tobacco or nicotine, including, but not limited
to, filters, rolling papers, blunt or hemp wraps, and pipes.

The term does not include drugs, devices, or combination
products authorized for sale by the U.S. Food and Drug
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Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, snuffing, or chewing.

(1/7) “Any person under the age of 21 18” does not include any person under the age of 21 18 who:

(a) Has had his or her disability of nonage removed under chapter 743;

(b) Is in the military reserve or on active duty in the Armed Forces of the United States;

(c) Is otherwise emancipated by a court of competent jurisdiction and released from parental care and responsibility;

or

(a) Is acting in his or her scope of lawful employment with an entity licensed under the provisions of chapter 210 or this chapter; or

(b) Is participating in a compliance check as required by s. 569.12.

Section 5. Subsection (2) of section 569.003, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

569.003 Retail tobacco products dealer permits; application; qualifications; fees; renewal; duplicates.—

(2) (a) Permits may be issued only to persons who are 21 18 years of age or older or to corporations the officers of which are 21 18 years of age or older.

(b) The division may refuse to issue a permit to any person, firm, association, or corporation the permit of which has been revoked or suspended, to any corporation an officer of
which has had his or her permit revoked or suspended, or to any
person who is or has been an officer of a corporation the permit
of which has been revoked or suspended. Any permit issued to a
firm, association, or corporation prohibited from obtaining a
permit under this section shall be revoked by the division.

(5) An entity that deals only in tobacco products that are
electronic smoking devices; components, parts, or accessories of
such devices; or substances that may be aerosolized or vaporized
by such devices and that holds or is applying for a retail
tobacco product dealer permit is exempt from any fees relating
to the permit.

Section 6. Subsections (1) and (2) of section 569.005,
Florida Statutes, are amended to read:

569.005 Operating without a retail tobacco products dealer
permit; penalty.—

(1) It is unlawful for a person, firm, association, or
corporation to deal, at retail, in tobacco products, in any
manner, or to allow a tobacco products vending machine to be
located on its premises, without having a retail tobacco
products dealer permit as required by s. 569.003. A person who
violates this section is guilty of a noncriminal violation,
punishable by a fine of at least not more than $500.

(2) Any person who violates this section shall be cited for
such infraction and shall be cited to appear before the county
court. The citation may indicate the time, date, and location of
the scheduled hearing and must indicate that the penalty for a
noncriminal violation is a fine of at least not more than $500.

Section 7. Section 569.006, Florida Statutes, is amended to
read:
569.006 Retail tobacco products dealers; administrative penalties.—The division may suspend or revoke the permit of the dealer upon sufficient cause appearing of the violation of any of the provisions of this chapter, by a dealer or by a dealer’s agent or employee. The division may also assess and accept administrative fines of up to $1,000 against a dealer for each violation. The revenues generated from such fines shall be used to offset the costs of licensing administration, education and training, retail inspections, and unannounced compliance checks, and the division shall deposit all fines collected into the Alcoholic Beverage and Tobacco Trust Fund as collected. 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 8. Subsections (1), (2), and (4) of section 569.007, Florida Statutes, are amended to read:

569.007 Sale or delivery of tobacco products; restrictions.—

(1) In order to prevent persons under 21 years of age from purchasing or receiving tobacco products, the sale or delivery of tobacco 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 the provisions of paragraph (1)(a) and are only permissible from a machine that is located in an establishment that prohibits persons under 21 years of age on the licensed premises at all
times equipped with an operational lockout device which is under
time 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
tobacco 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 tobacco product is dispensed
at a time.

(2) The provisions of subsection (1) shall not apply to an
establishment that prohibits persons under 18 years of age on
the licensed premises.

(3)(4) A dealer or a dealer’s agent or employee shall may
require proof of age of a purchaser of a tobacco product before
selling the product to that person.

Section 9. Section 569.0075, Florida Statutes, is amended
to read:

569.0075 Gift of sample tobacco products prohibited.—The
gift of sample tobacco products to any person under the age of
21 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 10. Section 569.008, Florida Statutes, is amended
to read:

569.008 Responsible retail tobacco products dealers;
qualifications; mitigation of disciplinary penalties;
diligent
management and supervision; presumption.—

(1) The Legislature intends to prevent the sale of tobacco
products to persons under 21 18 years of age and to encourage
retail tobacco products dealers to comply with responsible
practices in accordance with this section.

(2) To qualify as a responsible retail tobacco products
dealer, the dealer must establish and implement procedures
designed to ensure that the dealer’s employees comply with the
provisions of this chapter. The dealer must provide a training
program for the dealer’s employees which addresses the use and
sale of tobacco products and which includes at least the
following topics:

(a) Laws covering the sale of tobacco products.
(b) Methods of recognizing and handling customers under 21
years of age.
(c) Procedures for proper examination of identification
cards in order to verify that customers are not under 21 years of age.
(d) The use of the age audit identification function on
electronic point-of-sale equipment, where available.

(3) In determining penalties under s. 569.006, the division
may mitigate penalties imposed against a dealer because of an
employee’s illegal sale of a tobacco product to a person under
18 years of age if the following conditions are met:

(a) The dealer is qualified as a responsible dealer under
this section.
(b) The dealer provided the training program required under
subsection (2) to that employee before the illegal sale
occurred.
(c) The dealer had no knowledge of that employee’s
violation at the time of the violation and did not direct,
approve, or participate in the violation.
(d) If the sale was made through a vending machine, the machine was equipped with an operational lock-out device.

(3)(4) The division shall develop and make available a model tobacco products training program designed to ensure adherence to this act by dealers and their employees which, if followed, will qualify dealers as responsible dealers.

(4)(5) Dealers shall exercise diligence in the management and supervision of their premises and in the supervision and training of their employees, agents, or servants. In proceedings to impose penalties under s. 569.006, proof that employees, agents, or servants of the dealer, while in the scope of their employment, committed at least three violations of s. 569.101 during a 36-month 180-day period shall be prima facie evidence of a lack of due diligence by the dealer in the management and supervision of his or her premises and in the supervision and training of employees, agents, officers, or servants.

(5)(6) The division may consider qualification as a responsible retail tobacco products dealer under this section as evidence that the dealer properly exercised the diligence required under this section.

Section 11. Section 569.101, Florida Statutes, is amended to read:

569.101 Selling, delivering, bartering, furnishing, or giving tobacco products to persons under 21 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 the age of 21 18 years of age, any tobacco product.

(2) Any dealer person who violates subsection (1):
(a) For a first time shall pay a minimum fine of $500;
(b) For a second time within a 36-month period shall pay a
minimum fine of $750 and may not distribute tobacco products for
a minimum of 7 days;
(c) For a third time within a 36-month period shall pay a
minimum fine of $1,000 and may not distribute tobacco products
for a minimum of 30 days; and
(d) For a fourth and any subsequent violations within a 36-
month period shall pay a minimum fine of $1,000 and may not
distribute tobacco products for a period of 3 years.

(3) Any person found to have violated subsection (1) while
acting as a nonmanagement agent or employee of a dealer is
subject to noncriminal and nonmonetary penalties, including, but
not limited to, education classes, diversion programs, and
community service.

(4) Any person 21 years of age or older who is not a dealer
or a dealer’s agent or employee and who violates subsection (1)
shall pay an administrative fine of $50 commits a misdemeanor of
the second degree, punishable as provided in s. 775.082 or s.
775.083. However, any person who violates subsection (1) for a
second or subsequent time within 1 year of the first violation,
commits a misdemeanor of the first degree, punishable as
provided in s. 775.082 or s. 775.083.

(5)(3) A dealer or nonmanagement agent or employee of a
dirk person charged with a violation of subsection (1) has a
complete defense if, at the time the tobacco product was sold,
delivered, bartered, furnished, or given:
(a) The buyer or recipient falsely evidenced that she or he
was 21 18 years of age or older;
(b) The appearance of the buyer or recipient was such that a prudent person would believe the buyer or recipient to be 21 years of age or older; and

(c) Such person carefully checked a driver license or an identification card issued by this state or another state of the United States or a passport, or a United States armed services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 21 years of age or older.

Section 12. Section 569.11, Florida Statutes, is amended to read:

569.11 Possession, Misrepresenting age or military service to purchase, and purchase of tobacco products by persons under 21 years of age prohibited; penalties; jurisdiction; disposition of fines.—

(1) It is unlawful for any person under 18 years of age to knowingly possess any tobacco product. Any person under 18 years of age who violates this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

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

   (b) For a second or subsequent violation within 12 weeks after the first violation, a $25 fine.

Any second or subsequent violation not within the 12-week period after the first violation is punishable as provided for a first...
violation.
(2) It is unlawful for any person under 21 years of age to misrepresent his or her age for the purpose of inducing a dealer or an agent or employee of the dealer to sell, give, barter, furnish, or deliver any tobacco product, or to purchase, or attempt to purchase, any tobacco product from a person or a vending machine. Any person under 18 years of age who violates this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

(a) For a first violation, 16 hours of community service or, instead of community service, a $25 fine and, in addition, the person must attend a school-approved anti-tobacco program, if available; or
(b) For a second or subsequent violation within 12 weeks after the first violation, a $25 fine.

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

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

CODING: Words stricken are deletions; words underlined are additions.
(4) A person charged with a noncriminal violation under this section must appear before the county court or comply with the requirement for paying the fine. The court, after a hearing, shall make a determination as to whether the noncriminal violation was committed. If the court finds the violation was committed, it shall impose an appropriate penalty as specified in subsection (1) or subsection (2). A person who participates in community service shall be considered an employee of the state for the purpose of chapter 440, for the duration of such service.

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

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

(2)(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 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 13. Section 569.12, Florida Statutes, is amended to read:

569.12 Jurisdiction; tobacco product enforcement officers or agents; enforcement; compliance checks.—

(1) In addition to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, any law enforcement officer certified under s. 943.10(1), (6), or (8) shall enforce the provisions of this chapter.

(2)(a) A county or municipality may designate certain of its employees or agents as tobacco product enforcement officers. The training and qualifications of the employees or agents for such designation shall be determined by the county or the municipality. Nothing in this section shall be construed to permit the carrying of firearms or other weapons by a tobacco product enforcement agent, nor does designation as a tobacco product enforcement officer provide the employee or agent with the power of arrest or subject the employee or agent to the provisions of ss. 943.085-943.255. Nothing in this section amends, alters, or contravenes the provisions of any state-administered retirement system or any state-supported retirement system established by general law.

(b) A tobacco product enforcement officer is authorized to
issue a citation to a person under the age of 18 when, based
upon personal investigation, the officer has reasonable cause to
believe that the person has committed a civil infraction in
violation of s. 386.212 or s. 569.11.

(3) A correctional probation officer as defined in s. 943.10(3) is authorized to issue a citation to a person under
the age of 18 when, based upon personal investigation, the
officer has reasonable cause to believe that the person has
committed a civil infraction in violation of s. 569.11.

(4) A citation issued to any person violating the
provisions of s. 569.11 shall be in a form prescribed by the
Division of Alcoholic Beverages and Tobacco of the Department of
Business and Professional Regulation and shall contain:

(a) The date and time of issuance.
(b) The name and address of the person to whom the citation
is issued.
(c) The date and time the civil infraction was committed.
(d) The facts constituting reasonable cause.
(e) The number of the Florida statute violated.
(f) The name and authority of the citing officer.
(g) The procedure for the person to follow in order to
contest the citation, perform the required community service,
attend the required anti-tobacco program, or to pay the civil
penalty.

(4) Each dealer shall be subject to at least two
unannounced compliance checks per year. The division or its
authorized designee shall conduct compliance checks by engaging
persons between the ages of 18 and 20 to enter the tobacco
retail establishment to attempt to purchase tobacco products.
Unannounced follow-up compliance checks of all noncompliant dealers are required within 3 months of any violation of this section.

Section 14. Section 569.14, Florida Statutes, is amended to read:

569.14 Posting of a sign stating that the sale of tobacco products to persons under 21 years of age is unlawful; enforcement; penalty.—

(1) A dealer that sells tobacco products 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 TO PERSONS UNDER THE AGE OF 21 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR SALE PURCHASE.

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

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

A dealer that uses a sign as described in this subsection meets the signage requirements of subsection (1) and s. 877.112.

(3) The division shall make available to dealers of tobacco products signs that meet the requirements of subsection (1) or

CODING: Words stricken are deletions; words underlined are additions.
subsection (2).

(3)(4) Any dealer that sells tobacco products shall provide at the checkout counter in a location clearly visible to the dealer or 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. 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 BE SOLD BUY TOBACCO PRODUCTS.

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. Failure to comply with the provisions contained in this subsection shall result in imposition of administrative penalties as provided in s. 569.006.

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

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

Section 15. Subsections (3) and (4) of section 569.19, Florida Statutes, are 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 to persons under age 21 18, and the results of administrative hearings on the above and related issues.

(4) The number of persons under age 21 18 cited for violations of s. 569.11 and sanctions imposed as a result of citation.

Section 16. Section 877.112, Florida Statutes, is repealed.

Section 17. This act shall take effect October 1, 2020.