

By the Committees on Health Policy; and Regulated Industries;  
and Senator Hutson

588-03328-21

20211080c2

1                                   A bill to be entitled  
2       An act relating to tobacco and nicotine products;  
3       amending s. 210.095, F.S.; deleting the definition of  
4       the term "adult"; revising age limitations relating to  
5       mail order, Internet, and remote sales of tobacco  
6       products; amending s. 210.15, F.S.; requiring permits  
7       to be issued to persons or corporations whose officers  
8       are not under 21 years of age; amending s. 386.212,  
9       F.S.; providing that it is unlawful for persons under  
10      21 years of age to smoke tobacco or vape in, on, or  
11      within 1,000 feet of the real property comprising a  
12      public or private elementary, middle, or secondary  
13      school during specified hours; renaming ch. 569, F.S.;  
14      providing directives to the Division of Law Revision;  
15      amending s. 569.002, F.S.; defining the terms  
16      "nicotine product" and "nicotine dispensing device";  
17      conforming provisions to changes made by the act;  
18      creating s. 569.0025, F.S.; preempting the  
19      establishment of the minimum age for purchasing and  
20      possessing, and the regulation for the marketing,  
21      sale, or delivery of, tobacco products to the state;  
22      amending ss. 569.003, 569.004, and 569.006, F.S.;  
23      conforming provisions to changes made by the act;  
24      amending s. 569.007, F.S.; revising age limitations  
25      relating to the sale and delivery of tobacco products;  
26      revising applicability; amending s. 569.0075, F.S.;  
27      revising age limitations relating to gifting sample  
28      tobacco products; amending s. 569.008, F.S.; revising  
29      legislative intent; revising qualification

588-03328-21

20211080c2

30 requirements for responsible retail tobacco products  
31 dealers; conforming provisions to changes made by the  
32 act; amending s. 569.009, F.S.; conforming a provision  
33 to changes made by the act; amending s. 569.101, F.S.;  
34 revising age limitations relating to selling,  
35 delivering, bartering, furnishing, or giving tobacco  
36 products to certain persons; amending s. 569.11, F.S.;  
37 revising age limitations relating to possessing and  
38 obtaining tobacco products; amending s. 569.12, F.S.;  
39 expanding the authority of tobacco product enforcement  
40 officers to include nicotine products; amending s.  
41 569.14, F.S.; revising requirements for signage  
42 relating to tobacco products, nicotine products, and  
43 nicotine dispensing devices; conforming provisions to  
44 changes made by the act; amending s. 569.19, F.S.;  
45 conforming provisions to changes made by the act;  
46 creating s. 569.31, F.S.; defining terms; creating s.  
47 569.315, F.S.; preempting the establishment of the  
48 minimum age for purchasing and possessing, and the  
49 regulation for the marketing, sale, or delivery of,  
50 nicotine products to the state; creating s. 569.32,  
51 F.S.; requiring retail nicotine product dealers to  
52 acquire a permit; providing requirements and  
53 authorizations for such permit; creating s. 569.33,  
54 F.S.; specifying that an applicant for a retail  
55 nicotine products dealer permit consents to certain  
56 inspections and searches upon accepting such permit;  
57 creating s. 569.34, F.S.; prohibiting certain persons,  
58 firms, associations, or corporations from operating

588-03328-21

20211080c2

59 without a permit; providing civil penalties; creating  
60 s. 569.35, F.S.; providing administrative penalties  
61 for retail nicotine product dealers under certain  
62 circumstances; requiring the Division of Alcoholic  
63 Beverages and Tobacco to deposit funds collected from  
64 administrative fines into the General Revenue Fund;  
65 creating s. 569.37, F.S.; providing restrictions on  
66 the sale or delivery of nicotine products; creating s.  
67 569.38, F.S.; prohibiting certain persons from gifting  
68 sample nicotine products to persons under a specified  
69 age; creating s. 569.381, F.S.; providing legislative  
70 intent; providing requirements for a dealer to qualify  
71 as a responsible retail nicotine products dealer;  
72 authorizing the division to mitigate certain  
73 penalties; requiring the division to develop and make  
74 available a nicotine products training program;  
75 requiring dealers to exercise diligence in the  
76 management and supervision of their premises and the  
77 supervision and training of certain persons; creating  
78 s. 569.39, F.S.; requiring the division to adopt  
79 rules; creating ss. 569.41 and 569.42, F.S.; providing  
80 civil and criminal penalties relating to selling,  
81 delivering, bartering, furnishing, or giving nicotine  
82 products to certain persons and possessing and  
83 acquiring nicotine products, respectively; creating s.  
84 569.43, F.S.; providing signage requirements relating  
85 to the sale of nicotine products or nicotine  
86 dispensing devices; providing criminal penalties;  
87 creating s. 569.44, F.S.; requiring the division to

588-03328-21

20211080c2

88 provide an annual report containing specified  
89 information to the Governor and the Legislature;  
90 creating s. 569.45, F.S.; defining terms; providing  
91 requirements for mail order, Internet, and remote  
92 sales of nicotine products; providing applicability;  
93 providing criminal penalties; repealing s. 877.112,  
94 F.S., relating to nicotine products and nicotine  
95 dispensing devices; providing an effective date.

96

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

98

99 Section 1. Paragraph (a) of subsection (1), paragraphs (a)  
100 and (c) of subsection (2), paragraph (a) of subsection (3),  
101 paragraph (a) of subsection (4), paragraphs (a) and (b) of  
102 subsection (5), and paragraphs (a), (b), (e), and (g) of  
103 subsection (8) of section 210.095, Florida Statutes, are amended  
104 to read:

105 210.095 Mail order, Internet, and remote sales of tobacco  
106 products; age verification.—

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

108 ~~(a) "Adult" means an individual who is at least of the~~  
109 ~~legal minimum purchase age for tobacco products.~~

110 (2)

111 (a) A sale of tobacco products constituting a delivery sale  
112 pursuant to paragraph (1)(b) ~~(1)(e)~~ is a delivery sale  
113 regardless of whether the person accepting the order for the  
114 delivery sale is located inside or outside this state.

115 (c) A person may not make a delivery sale of tobacco  
116 products to any individual who is not 21 years of age or older

588-03328-21

20211080c2

117 ~~an adult.~~

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

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

124 1. Reliable confirmation that the individual is 21 years of  
125 age or older ~~an adult~~; and

126 2. A statement signed by the individual in writing and  
127 under penalty of perjury which:

128 a. Certifies the address and date of birth of the  
129 individual; and

130 b. Confirms that the individual wants to receive delivery  
131 sales from a tobacco company and understands that, under the  
132 laws of this state, the following actions are illegal:

133 (I) Signing another individual's name to the certification;

134 (II) Selling tobacco products to individuals under the  
135 legal minimum purchase age; and

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

138

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

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

145 (a) Illegal if made to individuals who are not 21 years of

588-03328-21

20211080c2

146 age or older ~~adults~~.

147

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

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

153 (a) Include as part of the shipping documents, in a clear  
154 and conspicuous manner, the following statement: "Tobacco  
155 Products: Florida law prohibits shipping to individuals under 21  
156 ~~18~~ years of age and requires the payment of all applicable  
157 taxes."

158 (b) Use a method of mailing, shipping, or delivery which  
159 obligates the delivery service to require:

160 1. The individual submitting the order for the delivery  
161 sale or another individual who is 21 years of age or older ~~adult~~  
162 who resides at the individual's address to sign his or her name  
163 to accept delivery of the shipping container. Proof of the legal  
164 minimum purchase age of the individual accepting delivery is  
165 required only if the individual appears to be under 30 ~~27~~ years  
166 of age.

167 2. Proof that the individual is either the addressee or the  
168 individual who is 21 years of age or older ~~adult~~ designated by  
169 the addressee, in the form of a valid, government-issued  
170 identification card bearing a photograph of the individual who  
171 signs to accept delivery of the shipping container.

172

173 If the person accepting a purchase order for a delivery sale  
174 delivers the tobacco products without using a delivery service,

588-03328-21

20211080c2

175 the person must comply with all of the requirements of this  
176 section which apply to a delivery service. Any failure to comply  
177 with a requirement of this section constitutes a violation  
178 thereof.

179 (8) (a) Except as otherwise provided in this section, a  
180 violation of this section by a person other than an individual  
181 who is not 21 years of age or older ~~an adult~~ is a misdemeanor of  
182 the first degree, punishable as provided in s. 775.082 or s.  
183 775.083, and:

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

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

191 (b) A person who is 21 years of age or older ~~an adult~~ and  
192 knowingly submits a false certification under subsection (3)  
193 commits a misdemeanor of the first degree, punishable as  
194 provided in s. 775.082 or s. 775.083. For each offense, the  
195 person shall be fined \$10,000 or five times the retail value of  
196 the tobacco products involved in the violation, whichever is  
197 greater.

198 (e) A person who, in connection with a delivery sale,  
199 delivers tobacco products on behalf of a delivery service to an  
200 individual who is not 21 years of age or older ~~an adult~~ commits  
201 a misdemeanor of the second ~~third~~ degree, punishable as provided  
202 in s. 775.082 or s. 775.083.

203 (g) An individual who is not 21 years of age or older ~~an~~

588-03328-21

20211080c2

204 ~~adult~~ and who knowingly violates any provision of this section  
205 commits a misdemeanor of the second ~~third~~ degree, punishable as  
206 provided in s. 775.082 or s. 775.083.

207 Section 2. Paragraph (b) of subsection (1) of section  
208 210.15, Florida Statutes, is amended to read:

209 210.15 Permits.—

210 (1)

211 (b) Permits shall be issued only to persons of good moral  
212 character who are not less than 21 ~~18~~ years of age. Permits to  
213 corporations shall be issued only to corporations whose officers  
214 are of good moral character and not less than 21 ~~18~~ years of  
215 age. There shall be no exemptions from the permit fees herein  
216 provided to any persons, association of persons, or corporation,  
217 any law to the contrary notwithstanding.

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

220 386.212 Smoking and vaping prohibited near school property;  
221 penalty.—

222 (1) It is unlawful for any person under 21 ~~18~~ years of age  
223 to smoke tobacco or vape in, on, or within 1,000 feet of the  
224 real property comprising a public or private elementary, middle,  
225 or secondary school between the hours of 6 a.m. and midnight.  
226 This section does not apply to any person occupying a moving  
227 vehicle or within a private residence.

228 Section 4. Chapter 569, Florida Statutes, entitled "Tobacco  
229 Products," is renamed "Tobacco and Nicotine Products."

230 Section 5. The Division of Law Revision is directed to:

231 (1) Create part I of chapter 569, Florida Statutes,  
232 consisting of ss. 569.002-569.23, Florida Statutes, to be

588-03328-21

20211080c2

233 entitled "Tobacco Products."

234 (2) Create part II of chapter 569, Florida Statutes,  
235 consisting of ss. 569.31-569.45, Florida Statutes, to be  
236 entitled "Nicotine Products."

237 Section 6. Section 569.002, Florida Statutes, is amended to  
238 read:

239 569.002 Definitions.—As used in this part ~~chapter~~, the  
240 term:

241 (1) "Dealer" is synonymous with the term "retail tobacco  
242 products dealer."

243 (2) "Division" means the Division of Alcoholic Beverages  
244 and Tobacco of the Department of Business and Professional  
245 Regulation.

246 (3) "Nicotine product" has the same meaning as provided in  
247 s. 569.31(4).

248 (4) "Nicotine dispensing device" has the same meaning as  
249 provided in s. 569.31(3).

250 (5) "Permit" is synonymous with the term "retail tobacco  
251 products dealer permit."

252 ~~(6)~~ (4) "Retail tobacco products dealer" means the holder of  
253 a retail tobacco products dealer permit.

254 ~~(7)~~ (5) "Retail tobacco products dealer permit" means a  
255 permit issued by the division pursuant to s. 569.003.

256 ~~(8)~~ (6) "Tobacco products" includes loose tobacco leaves,  
257 and products made from tobacco leaves, in whole or in part, and  
258 cigarette wrappers, which can be used for smoking, sniffing, or  
259 chewing.

260 ~~(9)~~ (7) "Any person under the age of 21 ~~18~~" does not include  
261 any person under the age of 21 ~~18~~ who:

588-03328-21

20211080c2

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

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

266 ~~(c) Is otherwise emancipated by a court of competent~~  
267 ~~jurisdiction and released from parental care and responsibility;~~  
268 or

269 (b) ~~(d)~~ Is acting in his or her scope of lawful employment  
270 with an entity licensed under the provisions of chapter 210 or  
271 this part ~~chapter~~.

272 Section 7. Section 569.0025, Florida Statutes, is created  
273 to read:

274 569.0025 Preemption.—The establishment of the minimum age  
275 for purchasing or possessing, and the regulation for the  
276 marketing, sale, or delivery of, tobacco products is preempted  
277 to the state.

278 Section 8. Paragraph (c) of subsection (1) of section  
279 569.003, Florida Statutes, is amended to read:

280 569.003 Retail tobacco products dealer permits;  
281 application; qualifications; fees; renewal; duplicates.—

282 (1)

283 (c) Permits shall be issued annually, upon payment of the  
284 annual permit fee prescribed by the division. The division shall  
285 fix the fee in an amount sufficient to meet the costs incurred  
286 by it in carrying out its permitting, enforcement, and  
287 administrative responsibilities under this part ~~chapter~~, but the  
288 fee may not exceed \$50. The proceeds of the fee shall be  
289 deposited into the Alcoholic Beverage and Tobacco Trust Fund.

290 Section 9. Section 569.004, Florida Statutes, is amended to

588-03328-21

20211080c2

291 read:

292 569.004 Consent to inspection and search without warrant.—  
293 An applicant for a permit, by accepting the permit when issued,  
294 agrees that the place or premises covered by the permit is  
295 subject to inspection and search without a search warrant by the  
296 division or its authorized assistants, and by sheriffs, deputy  
297 sheriffs, or police officers, to determine compliance with this  
298 chapter, including part II of this chapter if the applicant  
299 deals, at retail, in nicotine products within the state or  
300 allows a nicotine products vending machine to be located on its  
301 premises within the state.

302 Section 10. Section 569.006, Florida Statutes, is amended  
303 to read:

304 569.006 Retail tobacco products dealers; administrative  
305 penalties.—The division may suspend or revoke the permit of the  
306 dealer upon sufficient cause appearing of the violation of any  
307 of the provisions of this chapter, including part II of this  
308 chapter if the dealer deals, at retail, in nicotine products  
309 within the state or allows a nicotine products vending machine  
310 to be located on its premises within the state, by a dealer or  
311 by a dealer's agent or employee. The division may also assess  
312 and accept administrative fines of up to \$1,000 against a dealer  
313 for each violation. The division shall deposit all fines  
314 collected into the General Revenue Fund as collected. An order  
315 imposing an administrative fine becomes effective 15 days after  
316 the date of the order. The division may suspend the imposition  
317 of a penalty against a dealer, conditioned upon the dealer's  
318 compliance with terms the division considers appropriate.

319 Section 11. Subsections (1) and (2) of section 569.007,

588-03328-21

20211080c2

320 Florida Statutes, are amended to read:

321 569.007 Sale or delivery of tobacco products;  
322 restrictions.—

323 (1) In order to prevent persons under 21 ~~18~~ years of age  
324 from purchasing or receiving tobacco products, the sale or  
325 delivery of tobacco products is prohibited, except:

326 (a) When under the direct control or line of sight of the  
327 dealer or the dealer's agent or employee; or

328 (b) Sales from a vending machine are prohibited under the  
329 provisions of paragraph (1) (a) and are only permissible from a  
330 machine that is equipped with an operational lockout device  
331 which is under the control of the dealer or the dealer's agent  
332 or employee who directly regulates the sale of items through the  
333 machine by triggering the lockout device to allow the dispensing  
334 of one tobacco product. The lockout device must include a  
335 mechanism to prevent the machine from functioning if the power  
336 source for the lockout device fails or if the lockout device is  
337 disabled, and a mechanism to ensure that only one tobacco  
338 product is dispensed at a time.

339 (2) The provisions of subsection (1) shall not apply to an  
340 establishment that prohibits persons under 21 ~~18~~ years of age on  
341 the licensed premises.

342 Section 12. Section 569.0075, Florida Statutes, is amended  
343 to read:

344 569.0075 Gift of sample tobacco products prohibited.—The  
345 gift of sample tobacco products to any person under the age of  
346 21 ~~18~~ by an entity licensed or permitted under the provisions of  
347 chapter 210 or this part ~~chapter~~, or by an employee of such  
348 entity, is prohibited and is punishable as provided in s.

588-03328-21

20211080c2

349 569.101.

350 Section 13. Subsection (1), paragraphs (b) and (c) of  
351 subsection (2), and subsection (3) of section 569.008, Florida  
352 Statutes, are amended to read:

353 569.008 Responsible retail tobacco products dealers;  
354 qualifications; mitigation of disciplinary penalties; diligent  
355 management and supervision; presumption.—

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

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

367 (b) Methods of recognizing and handling customers under 21  
368 ~~18~~ years of age.

369 (c) Procedures for proper examination of identification  
370 cards in order to verify that customers are not under 21 ~~18~~  
371 years of age.

372 (3) In determining penalties under s. 569.006, the division  
373 may mitigate penalties imposed against a dealer because of an  
374 employee's illegal sale of a tobacco product to a person under  
375 21 ~~18~~ years of age if the following conditions are met:

376 (a) The dealer is qualified as a responsible dealer under  
377 this section.

588-03328-21

20211080c2

378 (b) The dealer provided the training program required under  
379 subsection (2) to that employee before the illegal sale  
380 occurred.

381 (c) The dealer had no knowledge of that employee's  
382 violation at the time of the violation and did not direct,  
383 approve, or participate in the violation.

384 (d) If the sale was made through a vending machine, the  
385 machine was equipped with an operational lock-out device.

386 Section 14. Section 569.009, Florida Statutes, is amended  
387 to read:

388 569.009 Rulemaking authority.—The division shall adopt any  
389 rules necessary to administer and enforce the provisions of this  
390 part ~~chapter~~.

391 Section 15. Section 569.101, Florida Statutes, is amended  
392 to read:

393 569.101 Selling, delivering, bartering, furnishing, or  
394 giving tobacco products to persons under 21 ~~18~~ years of age;  
395 criminal penalties; defense.—

396 (1) It is unlawful to sell, deliver, barter, furnish, or  
397 give, directly or indirectly, to any person who is under 21 ~~18~~  
398 years of age, any tobacco product.

399 (2) Any person who violates subsection (1) commits a  
400 misdemeanor of the second degree, punishable as provided in s.  
401 775.082 or s. 775.083. However, any person who violates  
402 subsection (1) for a second or subsequent time within 1 year of  
403 the first violation, commits a misdemeanor of the first degree,  
404 punishable as provided in s. 775.082 or s. 775.083.

405 (3) A person charged with a violation of subsection (1) has  
406 a complete defense if, at the time the tobacco product was sold,

588-03328-21

20211080c2

407 delivered, bartered, furnished, or given:

408 (a) The buyer or recipient falsely evidenced that she or he  
409 was 21 ~~18~~ years of age or older;

410 (b) The appearance of the buyer or recipient was such that  
411 a prudent person would believe the buyer or recipient to be 21  
412 ~~18~~ years of age or older; and

413 (c) Such person carefully checked a driver license or an  
414 identification card issued by this state or another state of the  
415 United States, a passport, or a United States armed services  
416 identification card presented by the buyer or recipient and  
417 acted in good faith and in reliance upon the representation and  
418 appearance of the buyer or recipient in the belief that the  
419 buyer or recipient was 21 ~~18~~ years of age or older.

420 Section 16. Section 569.11, Florida Statutes, is amended to  
421 read:

422 569.11 Possession, misrepresenting age or military service  
423 to purchase, and purchase of tobacco products by persons under  
424 21 ~~18~~ years of age prohibited; penalties; jurisdiction;  
425 disposition of fines.—

426 (1) It is unlawful for any person under 21 ~~18~~ years of age  
427 to knowingly possess any tobacco product. Any person under 21 ~~18~~  
428 years of age who violates this subsection commits a noncriminal  
429 violation as provided in s. 775.08(3), punishable by:

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

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

588-03328-21

20211080c2

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

440 (2) It is unlawful for any person under 21 ~~18~~ years of age  
441 to misrepresent his or her age or military service for the  
442 purpose of inducing a dealer or an agent or employee of the  
443 dealer to sell, give, barter, furnish, or deliver any tobacco  
444 product, or to purchase, or attempt to purchase, any tobacco  
445 product from a person or a vending machine. Any person under 21  
446 ~~18~~ years of age who violates this subsection commits a  
447 noncriminal violation as provided in s. 775.08(3), punishable  
448 by:

449 (a) For a first violation, 16 hours of community service  
450 or, instead of community service, a \$25 fine and, in addition,  
451 the person must attend a school-approved anti-tobacco program,  
452 if available; or

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

455

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

459 (3) Any person under 21 ~~18~~ years of age cited for  
460 committing a noncriminal violation under this section must sign  
461 and accept a civil citation indicating a promise to appear  
462 before the county court or comply with the requirement for  
463 paying the fine and must attend a school-approved anti-tobacco  
464 program, if locally available. If a fine is assessed for a

588-03328-21

20211080c2

465 violation of this section, the fine must be paid within 30 days  
466 after the date of the citation or, if a court appearance is  
467 mandatory, within 30 days after the date of the hearing.

468 (4) A person charged with a noncriminal violation under  
469 this section must appear before the county court or comply with  
470 the requirement for paying the fine. The court, after a hearing,  
471 shall make a determination as to whether the noncriminal  
472 violation was committed. If the court finds the violation was  
473 committed, it shall impose an appropriate penalty as specified  
474 in subsection (1) or subsection (2). A person who participates  
475 in community service shall be considered an employee of the  
476 state for the purpose of chapter 440, for the duration of such  
477 service.

478 (5) (a) If a person under 21 ~~18~~ years of age is found by the  
479 court to have committed a noncriminal violation under this  
480 section and that person has failed to complete community  
481 service, pay the fine as required by paragraph (1) (a) or  
482 paragraph (2) (a), or attend a school-approved anti-tobacco  
483 program, if locally available, the court may direct the  
484 Department of Highway Safety and Motor Vehicles to withhold  
485 issuance of or suspend the driver license or driving privilege  
486 of that person for a period of 30 consecutive days.

487 (b) If a person under 21 ~~18~~ years of age is found by the  
488 court to have committed a noncriminal violation under this  
489 section and that person has failed to pay the applicable fine as  
490 required by paragraph (1) (b) or paragraph (2) (b), the court may  
491 direct the Department of Highway Safety and Motor Vehicles to  
492 withhold issuance of or suspend the driver license or driving  
493 privilege of that person for a period of 45 consecutive days.

588-03328-21

20211080c2

494 (6) Eighty percent of all civil penalties received by a  
495 county court pursuant to this section shall be remitted by the  
496 clerk of the court to the Department of Revenue for transfer to  
497 the Department of Education to provide for teacher training and  
498 for research and evaluation to reduce and prevent the use of  
499 tobacco products by children. The remaining 20 percent of civil  
500 penalties received by a county court pursuant to this section  
501 shall remain with the clerk of the county court to cover  
502 administrative costs.

503 Section 17. Section 569.12, Florida Statutes, is amended to  
504 read:

505 569.12 Jurisdiction; tobacco product and nicotine product  
506 enforcement officers or agents; enforcement.—

507 (1) In addition to the Division of Alcoholic Beverages and  
508 Tobacco of the Department of Business and Professional  
509 Regulation, any law enforcement officer certified under s.  
510 943.10(1), (6), or (8) shall enforce the provisions of this  
511 chapter.

512 (2) (a) A county or municipality may designate certain of  
513 its employees or agents as tobacco product and nicotine product  
514 enforcement officers. The training and qualifications of the  
515 employees or agents for such designation shall be determined by  
516 the county or the municipality. Nothing in this section shall be  
517 construed to permit the carrying of firearms or other weapons by  
518 a tobacco product and nicotine product enforcement agent, nor  
519 does designation as a tobacco product and nicotine product  
520 enforcement officer provide the employee or agent with the power  
521 of arrest or subject the employee or agent to the provisions of  
522 ss. 943.085-943.255. Nothing in this section amends, alters, or

588-03328-21

20211080c2

523 contravenes the provisions of any state-administered retirement  
524 system or any state-supported retirement system established by  
525 general law.

526 (b) A tobacco and nicotine product enforcement officer is  
527 authorized to issue a citation to a person under the age of 21  
528 ~~18~~ when, based upon personal investigation, the officer has  
529 reasonable cause to believe that the person has committed a  
530 civil infraction in violation of s. 386.212, ~~or~~ s. 569.11, or s.  
531 569.42.

532 (3) A correctional probation officer as defined in s.  
533 943.10(3) is authorized to issue a citation to a person under  
534 the age of 21 ~~18~~ when, based upon personal investigation, the  
535 officer has reasonable cause to believe that the person has  
536 committed a civil infraction in violation of s. 569.11 or s.  
537 569.42.

538 (4) A citation issued to any person violating the  
539 provisions of s. 569.11 or s. 569.42 shall be in a form  
540 prescribed by the Division of Alcoholic Beverages and Tobacco of  
541 the Department of Business and Professional Regulation and shall  
542 contain:

543 (a) The date and time of issuance.

544 (b) The name and address of the person to whom the citation  
545 is issued.

546 (c) The date and time the civil infraction was committed.

547 (d) The facts constituting reasonable cause.

548 (e) The number of the Florida statute violated.

549 (f) The name and authority of the citing officer.

550 (g) The procedure for the person to follow in order to  
551 contest the citation, perform the required community service,

588-03328-21

20211080c2

552 attend the required anti-tobacco or anti-tobacco and anti-  
 553 nicotine program, or to pay the civil penalty.

554 Section 18. Section 569.14, Florida Statutes, is amended to  
 555 read:

556 569.14 Posting of a sign stating that the sale of tobacco  
 557 products or nicotine products to persons under 21 ~~18~~ years of  
 558 age is unlawful; enforcement; penalty.-

559 (1) A dealer that sells tobacco products shall post a clear  
 560 and conspicuous sign in each place of business where such  
 561 products are sold which substantially states the following:

562  
 563 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE  
 564 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS  
 565 REQUIRED FOR PURCHASE.

566  
 567 (2) A dealer that sells tobacco products and nicotine  
 568 products or nicotine dispensing devices, ~~as defined in s.~~  
 569 ~~877.112,~~ may use a sign that substantially states the following:

570  
 571 THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR  
 572 NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE  
 573 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS  
 574 REQUIRED FOR PURCHASE.

575  
 576 A dealer that uses a sign as described in this subsection meets  
 577 the signage requirements of subsection (1) and s. 569.43(1) ~~s.~~  
 578 ~~877.112.~~

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

588-03328-21

20211080c2

581 subsection (2).

582 (4) Any dealer that sells tobacco products shall provide at  
583 the checkout counter in a location clearly visible to the dealer  
584 or the dealer's agent or employee instructional material in a  
585 calendar format or similar format to assist in determining  
586 whether a person is of legal age to purchase tobacco products.  
587 This point of sale material must contain substantially the  
588 following language:

589

IF YOU WERE NOT BORN BEFORE THIS DATE

591 (insert date and applicable year)

592 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS,  
593 OR NICOTINE DISPENSING DEVICES.

594

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

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

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

606 Section 19. Section 569.19, Florida Statutes, is amended to  
607 read:

608 569.19 Annual report.—The division shall report annually  
609 with written findings to the Legislature and the Governor by

588-03328-21

20211080c2

610 December 31, on the progress of implementing the enforcement  
611 provisions of this part ~~chapter~~. This must include, but is not  
612 limited to:

613 (1) The number and results of compliance visits.

614 (2) The number of violations for failure of a retailer to  
615 hold a valid license.

616 (3) The number of violations for selling tobacco products  
617 to persons under age 21 ~~18~~, and the results of administrative  
618 hearings on the above and related issues.

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

622 Section 20. Section 569.31, Florida Statutes, is created to  
623 read:

624 569.31 Definitions.—As used in this part, the term:

625 (1) "Dealer" is synonymous with the term "retail nicotine  
626 products dealer."

627 (2) "Division" means the Division of Alcoholic Beverages  
628 and Tobacco of the Department of Business and Professional  
629 Regulation.

630 (3) "Nicotine dispensing device" means any product that  
631 employs an electronic, chemical, or mechanical means to produce  
632 vapor or aerosol from a nicotine product, including, but not  
633 limited to, an electronic cigarette, electronic cigar,  
634 electronic cigarillo, electronic pipe, or other similar device  
635 or product, any replacement cartridge for such device, and any  
636 other container of nicotine in a solution or other form intended  
637 to be used with or within an electronic cigarette, electronic  
638 cigar, electronic cigarillo, electronic pipe, or other similar

588-03328-21

20211080c2

639 device or product.

640 (4) "Nicotine product" means any product that contains  
641 nicotine, including liquid nicotine, which is intended for human  
642 consumption, whether inhaled, chewed, absorbed, dissolved, or  
643 ingested by any means. The term also includes any nicotine  
644 dispensing device. The term does not include a:

645 (a) Tobacco product, as defined in s. 569.002;

646 (b) Product regulated as a drug or device by the United  
647 States Food and Drug Administration under Chapter V of the  
648 Federal Food, Drug, and Cosmetic Act; or

649 (c) Product that contains incidental nicotine.

650 (5) "Permit" is synonymous with the term "retail nicotine  
651 products dealer permit."

652 (6) "Retail nicotine products dealer" means the holder of a  
653 retail nicotine products dealer permit.

654 (7) "Retail nicotine products dealer permit" means a permit  
655 issued by the division under s. 569.32.

656 (8) "Self-service merchandising" means the open display of  
657 nicotine products, whether packaged or otherwise, for direct  
658 retail customer access and handling before purchase without the  
659 intervention or assistance of the dealer or the dealer's owner,  
660 employee, or agent. An open display of such products and devices  
661 includes the use of an open display unit.

662 (9) "Any person under the age of 21" does not include any  
663 person under the age of 21 who:

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

666 (b) Is acting in his or her scope of lawful employment.

667 Section 21. Section 569.315, Florida Statutes, is created

588-03328-21

20211080c2

668 to read:

669 569.315 Preemption.—The establishment of the minimum age  
670 for purchasing or possessing, and the regulation for the  
671 marketing, sale, or delivery of, nicotine products is preempted  
672 to the state.

673 Section 22. Section 569.32, Florida Statutes, is created to  
674 read:

675 569.32 Retail nicotine products dealer permits;  
676 application; qualifications; renewal; duplicates.—

677 (1) (a) Each person, firm, association, or corporation that  
678 seeks to deal, at retail, in nicotine products within the state,  
679 or to allow a nicotine products vending machine to be located on  
680 its premises in the state, must obtain a retail nicotine  
681 products dealer permit for each place of business or premises at  
682 which nicotine products are sold. Each dealer owning, leasing,  
683 furnishing, or operating vending machines through which nicotine  
684 products are sold must obtain a permit for each machine and  
685 shall post the permit in a conspicuous place on or near the  
686 machine; however, if the dealer has more than one vending  
687 machine at a single location or if nicotine products are sold  
688 both over the counter and through a vending machine at a single  
689 location, the dealer need obtain only one permit for that  
690 location.

691 (b) Application for a permit must be made on a form  
692 furnished by the division and must set forth the name under  
693 which the applicant transacts or intends to transact business,  
694 the address of the location of the applicant's place of business  
695 within the state, and any other information the division  
696 requires. If the applicant has or intends to have more than one

588-03328-21

20211080c2

697 place of business dealing in nicotine products within the state,  
698 a separate application must be made for each place of business.  
699 If the applicant is a firm or an association, the application  
700 must set forth the names and addresses of the persons  
701 constituting the firm or association; if the applicant is a  
702 corporation, the application must set forth the names and  
703 addresses of the principal officers of the corporation. The  
704 application must also set forth any other information prescribed  
705 by the division for the purpose of identifying the applicant  
706 firm, association, or corporation. The application must be  
707 signed and verified by oath or affirmation by the owner, if a  
708 sole proprietor, or, if the owner is a firm, association, or  
709 partnership, by the members or partners thereof, or, if the  
710 owner is a corporation, by an executive officer of the  
711 corporation or by a person authorized by the corporation to sign  
712 the application, together with the written evidence of this  
713 authority.

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

717 (b) The division may refuse to issue a permit to any  
718 person, firm, association, or corporation the permit of which  
719 has been revoked, to any corporation an officer of which has had  
720 his or her permit revoked, or to any person who is or has been  
721 an officer of a corporation the permit of which has been  
722 revoked. Any permit issued to a firm, association, or  
723 corporation prohibited from obtaining a permit under this  
724 chapter shall be revoked by the division.

725 (3) Upon approval of an application for a permit, the

588-03328-21

20211080c2

726 division shall issue to the applicant a permit for the place of  
727 business or premises specified in the application. A permit is  
728 not assignable and is valid only for the person in whose name  
729 the permit is issued and for the place designated in the permit.  
730 The permit shall be conspicuously displayed at all times at the  
731 place for which issued.

732 Section 23. Section 569.33 Florida Statutes, is created to  
733 read:

734 569.33 Consent to inspection and search without warrant.—An  
735 applicant for a retail nicotine products dealer permit, by  
736 accepting the permit when issued, agrees that the place or  
737 premises covered by the permit is subject to inspection and  
738 search without a search warrant by the division or its  
739 authorized assistants, and by sheriffs, deputy sheriffs, or  
740 police officers, to determine compliance with this part.

741 Section 24. Section 569.34, Florida Statutes, is created to  
742 read:

743 569.34 Operating without a retail nicotine products dealer  
744 permit; penalty.—

745 (1) It is unlawful for a person, firm, association, or  
746 corporation to deal, at retail, in nicotine products, in any  
747 manner, or to allow a nicotine products vending machine to be  
748 located on its premises, without having a retail nicotine  
749 product dealer permit as required by s. 569.32. A person who  
750 violates this section commits a noncriminal violation,  
751 punishable by a fine of not more than \$500.

752 (2) A retail tobacco products dealer, as defined in s.  
753 569.002(4), is not required to have a separate or additional  
754 retail nicotine products dealer permit to deal, at retail, in

588-03328-21

20211080c2

755 nicotine products within the state, or allow a nicotine products  
756 vending machine to be located on its premises in the state. Any  
757 retail tobacco products dealer that deals, at retail, in  
758 nicotine products or allows a tobacco products vending machine  
759 to be located on its premises in the state, is subject to, and  
760 must be in compliance with, this part.

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

766 (a) A person cited for an infraction under this section  
767 may:

768 1. Post a \$500 bond; or  
769 2. Sign and accept the citation indicating a promise to  
770 appear.

771 (b) A person cited for violating this section may:

772 1. Pay the fine, either by mail or in person, within 10  
773 days after receiving the citation; or

774 2. If the person has posted bond, forfeit the bond by not  
775 appearing at the scheduled hearing.

776 (c) If the person pays the fine or forfeits bond, the  
777 person is deemed to have admitted violating this section and to  
778 have waived the right to a hearing on the issue of commission of  
779 the violation. Such admission may not be used as evidence in any  
780 other proceeding.

781 (d) The court, after a hearing, shall make a determination  
782 as to whether an infraction has been committed. If the  
783 commission of an infraction has been proven beyond a reasonable

588-03328-21

20211080c2

784 doubt, the court may impose a civil penalty in an amount that  
785 may not exceed \$500.

786 (e) If a person is found by the court to have committed the  
787 infraction, that person may appeal that finding to the circuit  
788 court.

789 Section 25. Section 569.35, Florida Statutes, is created to  
790 read:

791 569.35 Retail nicotine product dealers; administrative  
792 penalties.—The division may suspend or revoke the permit of a  
793 dealer, including the retail tobacco products dealer permit of a  
794 retail tobacco products dealer as defined in s. 569.002(4), upon  
795 sufficient cause appearing of the violation of any of the  
796 provisions of this part, by a dealer, or by a dealer's agent or  
797 employee. The division may also assess and accept an  
798 administrative fine of up to \$1,000 against a dealer for each  
799 violation. The division shall deposit all fines collected into  
800 the General Revenue Fund as collected. An order imposing an  
801 administrative fine becomes effective 15 days after the date of  
802 the order. The division may suspend the imposition of a penalty  
803 against a dealer, conditioned upon the dealer's compliance with  
804 terms the division considers appropriate.

805 Section 26. Section 569.37, Florida Statutes, is created to  
806 read:

807 569.37 Sale or delivery of nicotine products;  
808 restrictions.—

809 (1) In order to prevent persons under 21 years of age from  
810 purchasing or receiving nicotine products, the sale or delivery  
811 of nicotine products is prohibited, except:

812 (a) When under the direct control or line of sight of the

588-03328-21

20211080c2

813 dealer or the dealer's agent or employee; or

814 (b) Sales from a vending machine are prohibited under  
815 paragraph (a) and are only permissible from a machine that is  
816 equipped with an operational lockout device that is under the  
817 control of the dealer or the dealer's agent or employee who  
818 directly regulates the sale of items through the machine by  
819 triggering the lockout device to allow the dispensing of one  
820 nicotine product. The lockout device must include a mechanism to  
821 prevent the machine from functioning if the power source for the  
822 lockout device fails or if the lockout device is disabled, and a  
823 mechanism to ensure that only one nicotine product is dispensed  
824 at a time.

825 (2) (a) A dealer that sells nicotine products may not sell,  
826 permit to be sold, offer for sale, or display for sale such  
827 products or devices by means of self-service merchandising.

828 (b) A dealer that sells nicotine products may not place  
829 such products or devices in an open display unit unless the unit  
830 is located in an area that is inaccessible to customers.

831 (3) The provisions of subsections (1) and (2) shall not  
832 apply to an establishment that prohibits persons under 21 years  
833 of age on the licensed premises.

834 (4) A dealer or a dealer's agent or employee may require  
835 proof of age of a purchaser of a nicotine product before selling  
836 the product to that person.

837 Section 27. Section 569.38, Florida Statutes, is created to  
838 read:

839 569.38 Gift of sample nicotine products and nicotine  
840 dispensing devices.—The gift of sample nicotine products to any  
841 person under the age of 21 by an entity permitted under this

588-03328-21

20211080c2

842 part, or by an employee of such entity, is prohibited and is  
843 punishable as provided in s. 569.41.

844 Section 28. Section 569.381, Florida Statutes, is created  
845 to read:

846 569.381 Responsible retail nicotine products dealers;  
847 qualifications; mitigation of disciplinary penalties; diligent  
848 management and supervision; presumption.—

849 (1) It is the intent of the Legislature to prevent the sale  
850 of nicotine products to persons under 21 years of age and to  
851 encourage retail nicotine products dealers to comply with  
852 responsible practices in accordance with this section.

853 (2) To qualify as a responsible retail nicotine products  
854 dealer, the dealer must establish and implement procedures  
855 designed to ensure that the dealer's employees comply with this  
856 part. The dealer must provide a training program for the  
857 dealer's employees which addresses the use and sale of nicotine  
858 products and which includes at least the following topics:

859 (a) Laws covering the sale of nicotine products.

860 (b) Methods of recognizing and handling customers under 21  
861 years of age.

862 (c) Procedures for proper examination of identification  
863 cards in order to verify that customers are not under 21 years  
864 of age.

865 (d) The use of the age audit identification function on  
866 electronic point-of-sale equipment, where available.

867 (3) In determining penalties under s. 569.35, the division  
868 may mitigate penalties imposed against a dealer because of an  
869 employee's illegal sale of a nicotine product to a person under  
870 21 years of age if the following conditions are met:

588-03328-21

20211080c2

871 (a) The dealer is qualified as a responsible dealer under  
872 this section.

873 (b) The dealer provided the training program required under  
874 subsection (2) to that employee before the illegal sale  
875 occurred.

876 (c) The dealer had no knowledge of that employee's  
877 violation at the time of the violation and did not direct,  
878 approve, or participate in the violation.

879 (d) If the sale was made through a vending machine, the  
880 machine was equipped with an operational lock-out device.

881 (4) The division shall develop and make available a model  
882 nicotine products training program designed to ensure adherence  
883 to this part by dealers and their employees which, if followed,  
884 will qualify dealers as responsible dealers.

885 (5) Dealers shall exercise diligence in the management and  
886 supervision of their premises and in the supervision and  
887 training of their employees, agents, or servants. In proceedings  
888 to impose penalties under s. 569.35, proof that employees,  
889 agents, or servants of the dealer, while in the scope of their  
890 employment, committed at least three violations of s. 569.41  
891 during a 180-day period shall be prima facie evidence of a lack  
892 of due diligence by the dealer in the management and supervision  
893 of his or her premises and in the supervision and training of  
894 employees, agents, officers, or servants.

895 (6) The division may consider qualification as a  
896 responsible retail nicotine products dealer under this section  
897 as evidence that the dealer properly exercised the diligence  
898 required under this section.

899 Section 29. Section 569.39, Florida Statutes, is created to

588-03328-21

20211080c2

900 read:

901 569.39 Rulemaking authority.—The division shall adopt rules  
902 to administer and enforce this part.

903 Section 30. Section 569.41, Florida Statutes, is created to  
904 read:

905 569.41 Selling, delivering, bartering, furnishing, or  
906 giving nicotine products to persons under 21 years of age;  
907 criminal penalties; defense.—

908 (1) It is unlawful to sell, deliver, barter, furnish, or  
909 give, directly or indirectly, to any person who is under 21  
910 years of age, any nicotine product.

911 (2) Any person who violates subsection (1) commits a  
912 misdemeanor of the second degree, punishable as provided in s.  
913 775.082 or s. 775.083. However, any person who violates  
914 subsection (1) for a second or subsequent time within 1 year  
915 after the first violation commits a misdemeanor of the first  
916 degree, punishable as provided in s. 775.082 or s. 775.083.

917 (3) A person charged with a violation of subsection (1) has  
918 a complete defense if, at the time the nicotine product was  
919 sold, delivered, bartered, furnished, or given:

920 (a) The buyer or recipient falsely evidenced that she or he  
921 was 21 years of age or older;

922 (b) The appearance of the buyer or recipient was such that  
923 a prudent person would believe the buyer or recipient to be 21  
924 years of age or older; and

925 (c) Such person carefully checked a driver license or an  
926 identification card issued by the state or another state of the  
927 United States, a passport, or a United States armed services  
928 identification card presented by the buyer or recipient and

588-03328-21

20211080c2

929 acted in good faith and in reliance upon the representation and  
930 appearance of the buyer or recipient in the belief that the  
931 buyer or recipient was 21 years of age or older.

932 Section 31. Section 569.42, Florida Statutes, is created to  
933 read:

934 569.42 Possession, misrepresenting age or military service  
935 to purchase, and purchase of nicotine products by persons under  
936 21 years of age prohibited; penalties; jurisdiction; disposition  
937 of fines.—

938 (1) It is unlawful for any person under 21 years of age to  
939 knowingly possess any nicotine product. Any person under 21  
940 years of age who violates this subsection commits a noncriminal  
941 violation as provided in s. 775.08(3), punishable by:

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

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

948  
949 Any second or subsequent violation not within the 12-week period  
950 after the first violation is punishable as provided for a first  
951 violation.

952 (2) It is unlawful for any person under 21 years of age to  
953 misrepresent his or her age or military service for the purpose  
954 of inducing a dealer or an agent or employee of the dealer to  
955 sell, give, barter, furnish, or deliver any nicotine product, or  
956 to purchase, or attempt to purchase, any nicotine product from a  
957 person or a vending machine. Any person under 21 years of age

588-03328-21

20211080c2

958 who violates this subsection commits a noncriminal violation as  
959 defined in s. 775.08(3), punishable by:

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

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

966  
967 Any second or subsequent violation not within the 12-week period  
968 after the first violation is punishable as provided for a first  
969 violation.

970 (3) Any person under 21 years of age cited for committing a  
971 noncriminal violation under this section must sign and accept a  
972 civil citation indicating a promise to appear before the county  
973 court or comply with the requirement for paying the fine and  
974 must attend a school-approved anti-tobacco and anti-nicotine  
975 program, if locally available. If a fine is assessed for a  
976 violation of this section, the fine must be paid within 30 days  
977 after the date of the citation or, if a court appearance is  
978 mandatory, within 30 days after the date of the hearing.

979 (4) A person charged with a noncriminal violation under  
980 this section must appear before the county court or comply with  
981 the requirement for paying the fine. The court, after a hearing,  
982 shall make a determination as to whether the noncriminal  
983 violation was committed. If the court finds the violation was  
984 committed, it shall impose an appropriate penalty as specified  
985 in subsection (1) or subsection (2). A person who participates  
986 in community service shall be considered an employee of the

588-03328-21

20211080c2

987 state for the purpose of chapter 440, for the duration of such  
988 service.

989 (5) (a) If a person under 21 years of age is found by the  
990 court to have committed a noncriminal violation under this  
991 section and the person has failed to complete community service,  
992 pay the fine as required by paragraph (1) (a) or paragraph  
993 (2) (a), or attend a school-approved anti-tobacco and anti-  
994 nicotine program, if locally available, the court may direct the  
995 Department of Highway Safety and Motor Vehicles to withhold  
996 issuance of or suspend the driver license or driving privilege  
997 of that person for a period of 30 consecutive days.

998 (b) If a person under 21 years of age is found by the court  
999 to have committed a noncriminal violation under this section and  
1000 that person has failed to pay the applicable fine as required by  
1001 paragraph (1) (b) or paragraph (2) (b), the court may direct the  
1002 Department of Highway Safety and Motor Vehicles to withhold  
1003 issuance of or suspend the driver license or driving privilege  
1004 of that person for a period of 45 consecutive days.

1005 (6) Eighty percent of all civil penalties received by a  
1006 county court under this section shall be remitted by the clerk  
1007 of the court to the Department of Revenue for transfer to the  
1008 Department of Education to provide for teacher training and for  
1009 research and evaluation to reduce and prevent the use of  
1010 nicotine products by children. The remaining 20 percent of civil  
1011 penalties received by a county court under this section shall  
1012 remain with the clerk of the county court to cover  
1013 administrative costs.

1014 Section 32. Section 569.43, Florida Statutes, is created to  
1015 read:

588-03328-21

20211080c2

1016 569.43 Posting of a sign stating that the sale of nicotine  
1017 products or nicotine dispensing devices to persons under 21  
1018 years of age is unlawful; enforcement; penalty.-

1019 (1) A dealer that sells nicotine products shall post a  
1020 clear and conspicuous sign in each place of business at which  
1021 such products are sold which substantially states the following:

1022  
1023 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING  
1024 DEVICES TO PERSONS UNDER THE AGE OF 21 IS AGAINST  
1025 FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

1026  
1027 (2) The division shall make available to dealers of  
1028 nicotine products signs that meet the requirements of subsection  
1029 (1).

1030 (3) Any dealer that sells nicotine products shall provide  
1031 at the checkout counter in a location clearly visible to the  
1032 dealer or the dealer's agent or employee instructional material  
1033 in a calendar format or similar format to assist in determining  
1034 whether a person is of legal age to purchase nicotine products.  
1035 This point of sale material must contain substantially the  
1036 following language:

1037  
1038 IF YOU WERE NOT BORN BEFORE THIS DATE

1039 (insert date and applicable year)

1040 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR NICOTINE  
1041 DISPENSING DEVICES.

1042  
1043 Upon approval by the division, in lieu of a calendar a dealer  
1044 may use card readers, scanners, or other electronic or automated

588-03328-21

20211080c2

1045 systems that can verify whether a person is of legal age to  
1046 purchase nicotine products. Failure to comply with the  
1047 provisions contained in this subsection shall result in  
1048 imposition of administrative penalties as provided in s. 569.35.

1049 (4) The division, through its agents and inspectors, shall  
1050 enforce this section.

1051 (5) Any person who fails to comply with subsection (1)  
1052 commits a misdemeanor of the second degree, punishable as  
1053 provided in s. 775.082 or s. 775.083.

1054 Section 33. Section 569.44, Florida Statutes, is created to  
1055 read:

1056 569.44 Annual report.—The division shall report annually  
1057 with written findings to the Legislature and the Governor by  
1058 December 31, on the progress of implementing the enforcement  
1059 provisions of this part. This must include, but is not limited  
1060 to:

1061 (1) The number and results of compliance visits.

1062 (2) The number of violations for failure of a retailer to  
1063 hold a valid permit.

1064 (3) The number of violations for selling nicotine products  
1065 to persons under age 21, and the results of administrative  
1066 hearings on the above and related issues.

1067 (4) The number of persons under age 21 cited for violations  
1068 of s. 569.42 and sanctions imposed as a result of citation.

1069 Section 34. Section 569.45, Florida Statutes, is created to  
1070 read:

1071 569.45 Mail order, Internet, and remote sales of nicotine  
1072 products; age verification.—

1073 (1) For purposes of this section, the term:

588-03328-21

20211080c2

1074 (a) "Consumer" means a person in the state who comes into  
1075 possession of any nicotine product who, at the time of  
1076 possession, is not intending to sell or distribute the nicotine  
1077 product, or is not a retailer.

1078 (b) "Delivery sale" means any sale of nicotine products to  
1079 a consumer in the state for which:

1080 1. The consumer submits the order for the sale by  
1081 telephonic or other voice transmission, mail, delivery service,  
1082 or the Internet or other online service; or

1083 2. The nicotine products are delivered by use of mail or a  
1084 delivery service.

1085 (c) "Delivery service" means any person engaged in the  
1086 commercial delivery of letters, packages, or other containers.

1087 (d) "Legal minimum purchase age" means the minimum age at  
1088 which an individual may legally purchase nicotine products in  
1089 the state.

1090 (e) "Retailer" means any person who is required to obtain a  
1091 retail nicotine products dealer permit or a retail tobacco  
1092 products dealer permit, as defined in s. 569.002.

1093 (f) "Shipping container" means a container in which  
1094 nicotine products are shipped in connection with a delivery  
1095 sale.

1096 (g) "Shipping document" means a bill of lading, airbill,  
1097 United States Postal Service form, or any other document used to  
1098 verify the undertaking by a delivery service to deliver letters,  
1099 packages, or other containers.

1100 (2) (a) A sale of nicotine products constituting a delivery  
1101 sale under paragraph (1) (c) is a delivery sale regardless of  
1102 whether the person accepting the order for the delivery sale is

588-03328-21

20211080c2

1103 located inside or outside the state.

1104 (b) A retailer must obtain a retail nicotine products  
1105 dealer permit or a retail tobacco products dealer permit, as  
1106 defined in s. 569.002, from the division under the requirements  
1107 of this chapter before accepting an order for a delivery sale.

1108 (c) A person may not make a delivery sale of nicotine  
1109 products to any individual who is not 21 years of age or older.

1110 (d) Each person accepting an order for a delivery sale must  
1111 comply with each of the following:

1112 1. The age verification requirements set forth in  
1113 subsection (3).

1114 2. The disclosure requirements set forth in subsection (4).

1115 3. The shipping requirements set forth in subsection (5).

1116 (3) A person may not mail, ship, or otherwise deliver  
1117 nicotine products in connection with an order for a delivery  
1118 sale unless, before the first delivery to the consumer, the  
1119 person accepting the order for the delivery sale:

1120 (a) Obtains from the person submitting the order a  
1121 certification that includes:

1122 1. Reliable confirmation that the person is 21 years of age  
1123 or older; and

1124 2. A statement signed by the person in writing and under  
1125 penalty of perjury which:

1126 a. Certifies the address and date of birth of the person;  
1127 and

1128 b. Confirms that the person wants to receive delivery sales  
1129 from a nicotine products company and understands that, under the  
1130 laws of the state, the following actions are illegal:

1131 (I) Signing another person's name to the certification;

588-03328-21

20211080c2

1132 (II) Selling nicotine products to individuals who are not  
1133 21 years of age or older; and

1134 (III) Purchasing nicotine products, if the person making  
1135 the purchase is not 21 years of age or older.

1136 (b) Makes a good faith effort to verify the information  
1137 contained in the certification provided by the individual under  
1138 paragraph (a) against a commercially available database that may  
1139 be reasonably relied upon for accurate age information or  
1140 obtains a photocopy or other image of a valid government-issued  
1141 identification card stating the date of birth or age of the  
1142 individual.

1143 (c) Provides to the individual, via electronic mail or  
1144 other means, a notice meeting the requirements of subsection  
1145 (4).

1146 (d) If an order for nicotine products is made pursuant to  
1147 an advertisement on the Internet, receives payment for the  
1148 delivery sale from the consumer by a credit or debit card issued  
1149 in the name of the consumer, or by personal or company check of  
1150 the consumer.

1151 (e) The person accepting the order for delivery sale shall  
1152 submit, to each credit card acquiring company with which the  
1153 person has credit card sales, identification information in an  
1154 appropriate form and format so that the words "nicotine product"  
1155 may be printed in the purchaser's credit card statement when a  
1156 purchase of a nicotine product is made by credit card payment.

1157 (f) Makes a telephone call after 5 p.m. to the purchaser  
1158 confirming the order before shipping the nicotine products. The  
1159 telephone call may be a person-to-person call or a recorded  
1160 message. The person accepting the order for delivery sale is not

588-03328-21

20211080c2

1161 required to speak directly with a person and may leave a message  
1162 on an answering machine or through voice mail.

1163

1164 In addition to the requirements of this subsection, a person  
1165 accepting an order for a delivery sale may request that a  
1166 consumer provide an electronic mail address.

1167 (4) The notice described in paragraph (3)(c) must include  
1168 prominent and clearly legible statements that sales of nicotine  
1169 products are:

1170 (a) Illegal if made to individuals who are not 21 years of  
1171 age or older.

1172 (b) Restricted to those individuals who provide verifiable  
1173 proof of age in accordance with subsection (3).

1174 (5) Each person who mails, ships, or otherwise delivers  
1175 nicotine products in connection with an order for a delivery  
1176 sale must:

1177 (a) Include as part of the shipping documents, in a clear  
1178 and conspicuous manner, the following statement: "Nicotine  
1179 Products: Florida law prohibits shipping to individuals under 21  
1180 years of age."

1181 (b) Use a method of mailing, shipping, or delivery which  
1182 obligates the delivery service to require:

1183 1. The individual submitting the order for the delivery  
1184 sale or another person 21 years of age or older who resides at  
1185 the individual's address to sign his or her name to accept  
1186 delivery of the shipping container. Proof of the legal minimum  
1187 purchase age of the individual accepting delivery is required  
1188 only if the individual appears to be under 30 years of age.

1189 2. Proof that the individual is either the addressee or the

588-03328-21

20211080c2

1190 individual who is 21 years of age or older designated by the  
1191 addressee, in the form of a valid, government-issued  
1192 identification card bearing a photograph of the individual who  
1193 signs to accept delivery of the shipping container.

1194

1195 If the person accepting a purchase order for a delivery sale  
1196 delivers the nicotine products without using a delivery service,  
1197 the person must comply with all of the requirements of this  
1198 section which apply to a delivery service. Any failure to comply  
1199 with a requirement of this section constitutes a violation  
1200 thereof.

1201 (6) This section does not apply to delivery sales of  
1202 nicotine products to a retail nicotine products dealer or a  
1203 retail tobacco products dealer, as defined in s. 569.002.

1204 (7) An individual 21 years of age or older who knowingly  
1205 violates any provision of this section commits a misdemeanor of  
1206 the second degree, punishable as provided in s. 775.082 or s.  
1207 775.083.

1208 (8) The Attorney General, the Attorney General's designee,  
1209 or a state attorney may bring an action in the appropriate court  
1210 in the state to prevent or restrain violations of this section  
1211 by any person.

1212 Section 35. Section 877.112, Florida Statutes, is repealed.

1213 Section 36. This act shall take effect October 1, 2021.