

1 A bill to be entitled

2 An act relating to nicotine dispensing devices;
3 amending s. 569.002, F.S.; providing a definition;
4 amending s. 569.0075, F.S.; prohibiting the gift of
5 sample nicotine dispensing devices to persons under 18
6 years of age; amending s. 569.101, F.S.; prohibiting
7 the selling, delivering, bartering, furnishing, or
8 giving of nicotine dispensing devices to persons under
9 18 years of age, to which penalties apply; amending s.
10 569.11, F.S.; prohibiting persons under 18 years of
11 age from possessing, purchasing, or misrepresenting
12 their age or military service to purchase nicotine
13 dispensing devices; providing civil penalties;
14 amending s. 569.14, F.S.; requiring certain signage
15 where a dealer sells nicotine dispensing devices;
16 amending s. 569.19, F.S.; requiring the Division of
17 Alcoholic Beverages and Tobacco of the Department of
18 Business and Professional Regulation to submit the
19 number of violations for selling nicotine dispensing
20 devices in its annual report; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (8) is added to section 569.002,
26 Florida Statutes, to read:

27 569.002 Definitions.—As used in this chapter, the term:
 28 (8) "Nicotine dispensing devices" mean any product that
 29 can be used to deliver nicotine to an individual by inhaling
 30 vaporized nicotine from the product, including, but not limited
 31 to, electronic cigarettes and replacement nicotine cartridges
 32 for electronic cigarettes.

33 Section 2. Section 569.0075, Florida Statutes, is amended
 34 to read:

35 569.0075 Gift of sample tobacco products or sample
 36 nicotine dispensing devices prohibited.—The gift of sample
 37 tobacco products or sample nicotine dispensing devices to any
 38 person under the age of 18 by an entity licensed or permitted
 39 under the provisions of chapter 210 or this chapter, or by an
 40 employee of such entity, is prohibited and is punishable as
 41 provided in s. 569.101.

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

44 569.101 Selling, delivering, bartering, furnishing, or
 45 giving tobacco products or nicotine dispensing devices to
 46 persons under 18 years of age; criminal penalties; defense.—

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

50 (3) A person charged with a violation of subsection (1)
 51 has a complete defense if, at the time the tobacco product or
 52 nicotine dispensing device was sold, delivered, bartered,

53 furnished, or given:

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

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

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

66 Section 4. Subsections (1), (2), and (6) of section
67 569.11, Florida Statutes, are amended to read:

68 569.11 Possession, misrepresenting age or military service
69 to purchase, and purchase of tobacco products or nicotine
70 dispensing devices by persons under 18 years of age prohibited;
71 penalties; jurisdiction; disposition of fines.—

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

77 (a) For a first violation, 16 hours of community service
78 or, instead of community service, a \$25 fine. In addition, the

79 | person must attend a school-approved anti-tobacco and nicotine
80 | program, if locally available;

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

83 | (c) For a third or subsequent violation within 12 weeks of
84 | the first violation, the court must direct the Department of
85 | Highway Safety and Motor Vehicles to withhold issuance of or
86 | suspend or revoke the person's driver's license or driving
87 | privilege, as provided in s. 322.056.

88 |

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

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

102 | (a) For a first violation, 16 hours of community service
103 | or, instead of community service, a \$25 fine and, in addition,
104 | the person must attend a school-approved anti-tobacco and

105 nicotine program, if available;

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

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

113

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

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

126 Section 5. Subsections (1), (2), and (3) of section
127 569.14, Florida Statutes, are amended to read:

128 569.14 Posting of a sign stating that the sale of tobacco
129 products or nicotine dispensing devices to persons under 18
130 years of age is unlawful; enforcement; penalty.-

131 (1) Any dealer that sells tobacco products or nicotine
 132 dispensing devices shall post a clear and conspicuous sign in
 133 each place of business where such products are sold which
 134 substantially states the following:
 135 THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO
 136 PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE
 137 IS REQUIRED FOR PURCHASE.

138 (2) The division shall make available to dealers of
 139 tobacco products or nicotine dispensing devices signs that meet
 140 the requirements of subsection (1).

141 (3) Any dealer that sells tobacco products or nicotine
 142 dispensing devices shall provide at the checkout counter in a
 143 location clearly visible to the dealer, the dealer's agent or
 144 employee, instructional material in a calendar format or similar
 145 format to assist in determining whether a person is of legal age
 146 to purchase tobacco products or nicotine dispensing devices.
 147 This point of sale material must contain substantially the
 148 following language:

149 IF YOU WERE NOT BORN BEFORE THIS DATE

150 (insert date and applicable year)

151 YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.
 152 Upon approval by the division, in lieu of a calendar a dealer
 153 may use card readers, scanners, or other electronic or automated
 154 systems that can verify whether a person is of legal age to
 155 purchase tobacco products or nicotine dispensing devices.
 156 Failure to comply with the provisions contained in this

157 subsection shall result in imposition of administrative
158 penalties as provided in s. 569.006.

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

161 569.19 Annual report.—The division shall report annually
162 with written findings to the Legislature and the Governor by
163 December 31, on the progress of implementing the enforcement
164 provisions of this chapter. This must include, but is not
165 limited to:

166 (3) The number of violations for selling tobacco products
167 or nicotine dispensing devices to persons under age 18, and the
168 results of administrative hearings on the above and related
169 issues.

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