

1 A bill to be entitled
2 An act relating to tobacco products; amending s.
3 569.002, F.S.; redefining the term "tobacco products"
4 to include all recreational nicotine products;
5 creating s. 569.0035, F.S.; defining the term
6 "flavored tobacco products"; prohibiting retail
7 tobacco products dealers from dealing in flavored
8 tobacco products unless they prohibit persons under a
9 specified age on the premises; providing for a civil
10 penalty; amending s. 569.007, F.S.; authorizing the
11 sale or delivery of tobacco products in direct, face-
12 to-face exchanges with dealers or their agents or
13 employees; removing a provision that allowed the sale
14 or delivery of tobacco products from a vending machine
15 equipped with a certain device; adding specified
16 products to the list of products that are exempt from
17 the direct sale requirement; prohibiting certain
18 retailers from placing certain products or devices in
19 an open display unit unless the unit or the
20 establishment in which the unit is located meets
21 specific requirements; repealing s. 877.112, F.S.,
22 relating to nicotine products and nicotine dispensing
23 devices; amending ss. 322.056 and 569.14, F.S.;
24 conforming provisions to changes made by the act;
25 providing an effective date.

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

Section 1. Subsection (6) of section 569.002, Florida Statutes, is amended to read:

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

(6) "Tobacco products" means all recreational nicotine products, including, but not limited to, hookah and waterpipe tobacco, electronic nicotine delivery systems and their components, e-liquid, dissolvable tobacco, nicotine gel, smokeless tobacco, cigarettes, cigars, roll-your-own tobacco, pipe tobacco, ~~includes~~ loose tobacco leaves, ~~and~~ products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing, or chewing.

Section 2. Section 569.0035, Florida Statutes, is created to read:

569.0035 Flavored tobacco products; penalty.—

(1) For the purposes of this section, the term "flavored tobacco products" means tobacco products that contain an artificial or natural flavor, other than tobacco, menthol, or mint, which is a characterizing flavor of the tobacco product.

(2) A dealer may not deal, at retail, in flavored tobacco products in this state, or allow a vending machine offering flavored tobacco products to be located on its premises in this state, unless the dealer prohibits persons under 18 years of age

51 on the premises.

52 (4) A dealer, including its agents, officers, or
53 employees, which violates this section may be subject to a civil
54 penalty by the division of up to \$500 per violation.

55 Section 3. Section 569.007, Florida Statutes, is amended
56 to read:

57 569.007 Sale or delivery of tobacco products;
58 restrictions.-

59 (1) In order to prevent persons under 18 years of age from
60 purchasing or receiving tobacco products, the sale or delivery
61 of tobacco products is prohibited, except:

62 (a) When under the direct control ~~or line of sight~~ of the
63 dealer or the dealer's agent or employee; and ~~or~~

64 (b) In a direct, face-to-face exchange with the dealer or
65 the dealer's agent or employee ~~Sales from a vending machine are~~
66 ~~prohibited under the provisions of paragraph (1) (a) and are only~~
67 ~~permissible from a machine that is equipped with an operational~~
68 ~~lockout device which is under the control of the dealer or the~~
69 ~~dealer's agent or employee who directly regulates the sale of~~
70 ~~items through the machine by triggering the lockout device to~~
71 ~~allow the dispensing of one tobacco product. The lockout device~~
72 ~~must include a mechanism to prevent the machine from functioning~~
73 ~~if the power source for the lockout device fails or if the~~
74 ~~lockout device is disabled, and a mechanism to ensure that only~~
75 ~~one tobacco product is dispensed at a time.~~

76 (2) ~~The provisions of~~ Subsection (1) does ~~shall~~ not apply
 77 to an establishment that prohibits persons under 18 years of age
 78 on the licensed premises or-

79 ~~(3) The provisions of subsection (1) shall not apply to~~
 80 the sale or delivery of cigars, hookah and waterpipe tobacco,
 81 dissolvable tobacco, nicotine gel, and pipe tobacco.

82 (3) A retailer that sells electronic nicotine delivery
 83 systems or e-liquid may not place such products or devices in an
 84 open display unit unless the unit is located in an area that is
 85 inaccessible to customers or unless the establishment prohibits
 86 persons under 18 years of age on the premises.

87 (4) A dealer or a dealer's agent or employee may require
 88 proof of age of a purchaser of a tobacco product before selling
 89 the product to that person.

90 (5) A wholesale dealer or distributing agent, as those
 91 terms are defined in s. 210.01, or a distributor, as defined in
 92 s. 210.25, may sell or deliver tobacco products only to dealers
 93 who have permits.

94 Section 4. Section 877.112, Florida Statutes, is repealed.

95 Section 5. Subsections (2) and (3) of section 322.056,
 96 Florida Statutes, are amended to read:

97 322.056 Mandatory revocation or suspension of, or delay of
 98 eligibility for, driver license for persons under age 18 found
 99 guilty of certain alcohol, drug, or tobacco offenses;
 100 prohibition.-

101 (2) If a person under 18 years of age is found by the
102 court to have committed a noncriminal violation under s. 569.11
103 ~~or s. 877.112(6) or (7)~~ and that person has failed to comply
104 with the procedures established in that section by failing to
105 fulfill community service requirements, failing to pay the
106 applicable fine, or failing to attend a locally available
107 school-approved anti-tobacco program, and:

108 (a) The person is eligible by reason of age for a driver
109 license or driving privilege, the court shall direct the
110 department to revoke or to withhold issuance of his or her
111 driver license or driving privilege as follows:

- 112 1. For the first violation, for 30 days.
- 113 2. For the second violation within 12 weeks of the first
114 violation, for 45 days.

115 (b) The person's driver license or driving privilege is
116 under suspension or revocation for any reason, the court shall
117 direct the department to extend the period of suspension or
118 revocation by an additional period as follows:

- 119 1. For the first violation, for 30 days.
- 120 2. For the second violation within 12 weeks of the first
121 violation, for 45 days.

122 (c) The person is ineligible by reason of age for a driver
123 license or driving privilege, the court shall direct the
124 department to withhold issuance of his or her driver license or
125 driving privilege as follows:

- 126 1. For the first violation, for 30 days.
 127 2. For the second violation within 12 weeks of the first
 128 violation, for 45 days.

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 130 Any second violation of s. 569.11 ~~or s. 877.112(6) or (7)~~ not
 131 within the 12-week period after the first violation will be
 132 treated as a first violation and in the same manner as provided
 133 in this subsection.

134 (3) If a person under 18 years of age is found by the
 135 court to have committed a third violation of s. 569.11 ~~or s.~~
 136 ~~877.112(6) or (7)~~ within 12 weeks of the first violation, the
 137 court must direct the Department of Highway Safety and Motor
 138 Vehicles to suspend or withhold issuance of his or her driver
 139 license or driving privilege for 60 consecutive days. Any third
 140 violation of s. 569.11 ~~or s. 877.112(6) or (7)~~ not within the
 141 12-week period after the first violation will be treated as a
 142 first violation and in the same manner as provided in subsection
 143 (2).

144 Section 6. Subsections (2) and (3) of section 569.14,
 145 Florida Statutes, are amended to read:

146 569.14 Posting of a sign stating that the sale of tobacco
 147 products to persons under 18 years of age is unlawful;
 148 enforcement; penalty.—

149 ~~(2) A dealer that sells tobacco products and nicotine~~
 150 ~~products or nicotine dispensing devices, as defined in s.~~

151 ~~877.112, may use a sign that substantially states the following:~~

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

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

160 (2)(3) The division shall make available to dealers of
 161 tobacco products signs that meet the requirements of subsection
 162 (1) ~~or subsection (2)~~.

163 Section 7. This act shall take effect July 1, 2019.