

26 | definitions; creating s. 569.32, F.S.; requiring
27 | retail nicotine products dealers to obtain a permit;
28 | providing requirements for such permit; creating s.
29 | 569.33, F.S.; providing for consent to inspection and
30 | search without warrant; creating s. 569.34, F.S.;
31 | prohibiting certain persons, firms, associations, or
32 | corporations from operating without a retail nicotine
33 | products dealer permit; providing civil penalties;
34 | creating s. 569.35, F.S.; providing administrative
35 | penalties for retail nicotine products dealers under
36 | certain circumstances; creating s. 569.37, F.S.;
37 | providing restrictions on the sale or delivery of
38 | nicotine products; creating s. 569.38, F.S.;
39 | prohibiting giving nicotine product samples to certain
40 | persons; creating s. 569.381, F.S.; providing
41 | legislative intent; providing qualifications for
42 | responsible retail nicotine products dealers;
43 | authorizing the Division of Alcoholic Beverages and
44 | Tobacco within the Department of Business and
45 | Professional Regulation to mitigate administrative
46 | penalties under certain circumstances; requiring the
47 | division to develop and make available a nicotine
48 | products training program; requiring nicotine products
49 | dealers to exercise diligence in the management and
50 | supervision of their premises and the supervision and

51 training of certain persons; creating s. 569.39, F.S.;

52 requiring the division to adopt rules; creating s.

53 569.41, F.S.; prohibiting the selling, delivering,

54 bartering, furnishing, or giving of nicotine products

55 to certain persons; providing criminal penalties;

56 providing a defense; creating s. 569.42, F.S.;

57 prohibiting possessing, misrepresenting age or

58 military service to purchase, and purchasing nicotine

59 products by certain persons; providing civil

60 penalties; authorizing the Department of Highway

61 Safety and Motor Vehicles to withhold issuance of or

62 suspend a driver license or driving privileges under

63 certain circumstances; providing for the use of fees

64 collected; creating s. 569.43, F.S.; providing signage

65 requirements; providing for enforcement; providing

66 criminal penalties; creating s. 569.44, F.S.;

67 requiring the division to provide an annual report

68 containing specified information to the Governor and

69 Legislature; creating s. 569.45, F.S.; providing

70 definitions; providing requirements for mail order,

71 Internet, and remote sales of nicotine products;

72 providing applicability; providing criminal penalties;

73 providing for a cause of action to prevent or restrain

74 specified violations; repealing s. 877.112, F.S.,

75 relating to nicotine products and nicotine dispensing

76 devices; providing an effective date.

77
78 Be It Enacted by the Legislature of the State of Florida:

79
80 Section 1. Paragraphs (b) through (j) of subsection (1) of
81 section 210.095, Florida Statutes, are redesignated as
82 paragraphs (a) through (i), respectively, and present paragraph
83 (a) of subsection (1), paragraphs (a) and (c) of subsection (2),
84 paragraph (a) of subsection (3), paragraph (a) of subsection
85 (4), paragraphs (a) and (b) of subsection (5), and paragraphs
86 (a), (b), (e), and (g) of subsection (8) of that section are
87 amended to read:

88 210.095 Mail order, Internet, and remote sales of tobacco
89 products; age verification.—

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

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

93 (2) (a) A sale of tobacco products constituting a delivery
94 sale pursuant to paragraph (1) (b) ~~(1) (e)~~ is a delivery sale
95 regardless of whether the person accepting the order for the
96 delivery sale is located inside or outside this state.

97 (c) A person may not make a delivery sale of tobacco
98 products to any individual who is not 21 years of age or older
99 ~~an adult.~~

100 (3) A person may not mail, ship, or otherwise deliver

101 tobacco products in connection with an order for a delivery sale
 102 unless, before the first delivery to the consumer, the person
 103 accepting the order for the delivery sale:

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

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

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

110 a. Certifies the address and date of birth of the
 111 individual; and

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

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

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

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

121
 122 In addition to the requirements of this subsection, a person
 123 accepting an order for a delivery sale may request that a
 124 consumer provide an electronic mail address.

125 (4) The notice described in paragraph (3)(c) must include

126 prominent and clearly legible statements that sales of tobacco
127 products are:

128 (a) Illegal if made to individuals who are not 21 years of
129 age or older ~~adults~~.

130

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

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

136 (a) Include as part of the shipping documents, in a clear
137 and conspicuous manner, the following statement: "Tobacco
138 Products: Florida law prohibits shipping to individuals under 21
139 ~~18~~ years of age and requires the payment of all applicable
140 taxes."

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

143 1. The individual submitting the order for the delivery
144 sale or another individual who is 21 years of age or older ~~adult~~
145 who resides at the individual's address to sign his or her name
146 to accept delivery of the shipping container. Proof of the legal
147 minimum purchase age of the individual accepting delivery is
148 required only if the individual appears to be under 30 ~~27~~ years
149 of age.

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

151 the individual who is 21 years of age or older ~~adult~~ designated
152 by the addressee, in the form of a valid, government-issued
153 identification card bearing a photograph of the individual who
154 signs to accept delivery of the shipping container.

155

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

162 (8) (a) Except as otherwise provided in this section, a
163 violation of this section by a person other than an individual
164 who is not 21 years of age or older ~~an adult~~ is a misdemeanor of
165 the first degree, punishable as provided in s. 775.082 or s.
166 775.083, and:

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

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

174 (b) A person who is 21 years of age or older ~~an adult~~ and
175 knowingly submits a false certification under subsection (3)

176 commits a misdemeanor of the first degree, punishable as
 177 provided in s. 775.082 or s. 775.083. For each offense, the
 178 person shall be fined \$10,000 or five times the retail value of
 179 the tobacco products involved in the violation, whichever is
 180 greater.

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

186 (g) An individual who is not 21 years of age or older ~~an~~
 187 ~~adult~~ and who knowingly violates any provision of this section
 188 commits a misdemeanor of the second ~~third~~ degree, punishable as
 189 provided in s. 775.082 or s. 775.083.

190 Section 2. Subsection (1) of section 386.212, Florida
 191 Statutes, is amended to read:

192 386.212 Smoking and vaping prohibited near school
 193 property; penalty.—

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

200 Section 3. Chapter 569, Florida Statutes, entitled

201 "Tobacco Products" is renamed "Tobacco and Nicotine Products."

202 Section 4. The Division of Law Revision is directed to:

203 (1) Create part I of chapter 569, Florida Statutes,
 204 consisting of ss. 569.002-569.24, Florida Statutes, to be
 205 entitled "Tobacco Products."

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

209 Section 5. Section 569.002, Florida Statutes, is amended
 210 to read:

211 569.002 Definitions.—As used in this part ~~chapter~~, the
 212 term:

213 (1) ~~(7)~~ "Any person under the age of 21 ~~18~~" does not
 214 include any person under the age of 21 ~~18~~ who:

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

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

219 ~~(c) Is otherwise emancipated by a court of competent~~
 220 ~~jurisdiction and released from parental care and responsibility;~~
 221 ~~or~~

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

225 (2) ~~(1)~~ "Dealer" is synonymous with the term "retail

226 tobacco products dealer."

227 (3)~~(2)~~ "Division" means the Division of Alcoholic
228 Beverages and Tobacco of the Department of Business and
229 Professional Regulation.

230 (4) "Nicotine dispensing device" has the same meaning as
231 in s. 569.31.

232 (5) "Nicotine product" has the same meaning as in s.
233 569.31.

234 (6)~~(3)~~ "Permit" is synonymous with the term "retail
235 tobacco products dealer permit."

236 (7)~~(4)~~ "Retail tobacco products dealer" means the holder
237 of a retail tobacco products dealer permit.

238 (8)~~(5)~~ "Retail tobacco products dealer permit" means a
239 permit issued by the division pursuant to s. 569.003.

240 (9)~~(6)~~ "Tobacco products" includes loose tobacco leaves,
241 and products made from tobacco leaves, in whole or in part, and
242 cigarette wrappers, which can be used for smoking, sniffing, or
243 chewing.

244 Section 6. Paragraph (c) of subsection (1) of section
245 569.003, Florida Statutes, is amended to read:

246 569.003 Retail tobacco products dealer permits;
247 application; qualifications; fees; renewal; duplicates.—

248 (1)

249 (c) Permits shall be issued annually, upon payment of the
250 annual permit fee prescribed by the division. The division shall

251 fix the fee in an amount sufficient to meet the costs incurred
252 by it in carrying out its permitting, enforcement, and
253 administrative responsibilities under this part ~~chapter~~, but the
254 fee may not exceed \$50. The proceeds of the fee shall be
255 deposited into the Alcoholic Beverage and Tobacco Trust Fund.

256 Section 7. Section 569.004, Florida Statutes, is amended
257 to read:

258 569.004 Consent to inspection and search without warrant.—
259 An applicant for a permit, by accepting the permit when issued,
260 agrees that the place or premises covered by the permit is
261 subject to inspection and search without a search warrant by the
262 division or its authorized assistants, and by sheriffs, deputy
263 sheriffs, or police officers, to determine compliance with this
264 chapter, including part II of this chapter if the applicant
265 deals, at retail, in nicotine products within the state or
266 allows a nicotine products vending machine to be located on its
267 premises within the state.

268 Section 8. Section 569.006, Florida Statutes, is amended
269 to read:

270 569.006 Retail tobacco products dealers; administrative
271 penalties.—The division may suspend or revoke the permit of the
272 dealer upon sufficient cause appearing of the violation of any
273 of the provisions of this chapter, including part II of this
274 chapter if the dealer deals, at retail, in nicotine products
275 within the state or allows a nicotine products vending machine

276 | to be located on its premises within the state, by a dealer or
 277 | by a dealer's agent or employee. The division may also assess
 278 | and accept administrative fines of up to \$1,000 against a dealer
 279 | for each violation. The division shall deposit all fines
 280 | collected into the General Revenue Fund as collected. An order
 281 | imposing an administrative fine becomes effective 15 days after
 282 | the date of the order. The division may suspend the imposition
 283 | of a penalty against a dealer, conditioned upon the dealer's
 284 | compliance with terms the division considers appropriate.

285 | Section 9. Subsections (1), (2), and (4) of section
 286 | 569.007, Florida Statutes, are amended to read:

287 | 569.007 Sale or delivery of tobacco products;
 288 | restrictions.—

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

292 | (a) When under the direct control or line of sight of the
 293 | dealer or the dealer's agent or employee; or

294 | (b) Sales from a vending machine are prohibited under the
 295 | provisions of paragraph ~~(1)~~(a) and are only permissible from a
 296 | machine that is equipped with an operational lockout device
 297 | which is under the control of the dealer or the dealer's agent
 298 | or employee who directly regulates the sale of items through the
 299 | machine by triggering the lockout device to allow the dispensing
 300 | of one tobacco product. The lockout device must include a

301 mechanism to prevent the machine from functioning if the power
302 source for the lockout device fails or if the lockout device is
303 disabled, and a mechanism to ensure that only one tobacco
304 product is dispensed at a time.

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

308 (4) A dealer or a dealer's agent or employee must ~~may~~
309 require proof of age of a purchaser of a tobacco product before
310 selling the product to that person, unless the purchaser appears
311 to be 30 years of age or older.

312 Section 10. Section 569.0075, Florida Statutes, is amended
313 to read:

314 569.0075 Gift of sample tobacco products prohibited.—The
315 gift of sample tobacco products to any person under the age of
316 21 ~~18~~ by an entity licensed or permitted under the provisions of
317 chapter 210 or this part ~~chapter~~, or by an employee of such
318 entity, is prohibited and is punishable as provided in s.
319 569.101.

320 Section 11. Subsections (1), (2), and (3) of section
321 569.008, Florida Statutes, are amended to read:

322 569.008 Responsible retail tobacco products dealers;
323 qualifications; mitigation of disciplinary penalties; diligent
324 management and supervision; presumption.—

325 (1) The Legislature intends to prevent the sale of tobacco

326 products to persons under 21 ~~18~~ years of age and to encourage
327 retail tobacco products dealers to comply with responsible
328 practices in accordance with this section.

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

336 (a) Laws covering the sale of tobacco products.

337 (b) Methods of recognizing and handling customers under 21
338 ~~18~~ years of age.

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

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

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

348 (a) The dealer is qualified as a responsible dealer under
349 this section.

350 (b) The dealer provided the training program required

351 under subsection (2) to that employee before the illegal sale
 352 occurred.

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

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

358 Section 12. Section 569.009, Florida Statutes, is amended
 359 to read:

360 569.009 Rulemaking authority.—The division shall adopt any
 361 rules necessary to administer and enforce the provisions of this
 362 part ~~chapter~~.

363 Section 13. Section 569.101, Florida Statutes, is amended
 364 to read:

365 569.101 Selling, delivering, bartering, furnishing, or
 366 giving tobacco products to persons under 21 ~~18~~ years of age;
 367 criminal penalties; defense.—

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

371 (2) Any person who violates subsection (1) commits a
 372 misdemeanor of the second degree, punishable as provided in s.
 373 775.082 or s. 775.083. However, any person who violates
 374 subsection (1) for a second or subsequent time within 1 year
 375 after ~~of~~ the first violation, commits a misdemeanor of the first

376 degree, punishable as provided in s. 775.082 or s. 775.083.

377 (3) A person charged with a violation of subsection (1)
 378 has a complete defense if, at the time the tobacco product was
 379 sold, delivered, bartered, furnished, or given:

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

382 (b) The appearance of the buyer or recipient was such that
 383 a prudent person would believe the buyer or recipient to be 21
 384 ~~18~~ years of age or older; and

385 (c) Such person carefully checked a driver license or an
 386 identification card issued by this state or another state of the
 387 United States, a passport, or a United States Armed Services
 388 identification card presented by the buyer or recipient and
 389 acted in good faith and in reliance upon the representation and
 390 appearance of the buyer or recipient in the belief that the
 391 buyer or recipient was 21 ~~18~~ years of age or older.

392 Section 14. Section 569.11, Florida Statutes, is amended
 393 to read:

394 569.11 Possession, misrepresenting age or military service
 395 to purchase, and purchase of tobacco products by persons under
 396 21 ~~18~~ years of age prohibited; penalties; jurisdiction;
 397 disposition of fines.—

398 (1) It is unlawful for any person under 21 ~~18~~ years of age
 399 to knowingly possess any tobacco product. Any person under 21 ~~18~~
 400 years of age who violates this subsection commits a noncriminal

401 violation as provided in s. 775.08(3), punishable by:

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

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

408
 409 Any second or subsequent violation not within the 12-week period
 410 after the first violation is punishable as provided for a first
 411 violation.

412 (2) It is unlawful for any person under 21 ~~18~~ years of age
 413 to misrepresent his or her age or military service for the
 414 purpose of inducing a dealer or an agent or employee of the
 415 dealer to sell, give, barter, furnish, or deliver any tobacco
 416 product, or to purchase, or attempt to purchase, any tobacco
 417 product from a person or a vending machine. Any person under 21
 418 ~~18~~ years of age who violates this subsection commits a
 419 noncriminal violation as provided in s. 775.08(3), punishable
 420 by:

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

425 (b) For a second or subsequent violation within 12 weeks

426 | after the first violation, a \$25 fine.

427 |

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

431 | (3) Any person under 21 ~~18~~ years of age cited for
 432 | committing a noncriminal violation under this section must sign
 433 | and accept a civil citation indicating a promise to appear
 434 | before the county court or comply with the requirement for
 435 | paying the fine and must attend a school-approved anti-tobacco
 436 | program, if locally available. If a fine is assessed for a
 437 | violation of this section, the fine must be paid within 30 days
 438 | after the date of the citation or, if a court appearance is
 439 | mandatory, within 30 days after the date of the hearing.

440 | (4) A person charged with a noncriminal violation under
 441 | this section must appear before the county court or comply with
 442 | the requirement for paying the fine. The court, after a hearing,
 443 | shall make a determination as to whether the noncriminal
 444 | violation was committed. If the court finds the violation was
 445 | committed, it shall impose an appropriate penalty as specified
 446 | in subsection (1) or subsection (2). A person who participates
 447 | in community service shall be considered an employee of the
 448 | state for the purpose of chapter 440, for the duration of such
 449 | service.

450 | (5) (a) If a person under 21 ~~18~~ years of age is found by

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

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

466 (6) Eighty percent of all civil penalties received by a
467 county court pursuant to this section shall be remitted by the
468 clerk of the court to the Department of Revenue for transfer to
469 the Department of Education to provide for teacher training and
470 for research and evaluation to reduce and prevent the use of
471 tobacco products by children. The remaining 20 percent of civil
472 penalties received by a county court pursuant to this section
473 shall remain with the clerk of the county court to cover
474 administrative costs.

475 Section 15. Section 569.12, Florida Statutes, is amended

476 to read:

477 569.12 Jurisdiction; tobacco product and nicotine product
478 enforcement officers or agents; enforcement.—

479 (1) In addition to the Division of Alcoholic Beverages and
480 Tobacco of the Department of Business and Professional
481 Regulation, any law enforcement officer certified under s.
482 943.10(1), (6), or (8) shall enforce the provisions of this
483 chapter.

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

498 (b) A tobacco product and nicotine product enforcement
499 officer is authorized to issue a citation to a person under the
500 age of 21 ~~18~~ when, based upon personal investigation, the

501 officer has reasonable cause to believe that the person has
502 committed a civil infraction in violation of s. 386.212, ~~or~~ s.
503 569.11, or s. 569.42.

504 (3) A correctional probation officer as defined in s.
505 943.10(3) is authorized to issue a citation to a person under
506 the age of 21 ~~18~~ when, based upon personal investigation, the
507 officer has reasonable cause to believe that the person has
508 committed a civil infraction in violation of s. 569.11 or s.
509 569.42.

510 (4) A citation issued to any person violating the
511 provisions of s. 569.11 or s. 569.42 shall be in a form
512 prescribed by the Division of Alcoholic Beverages and Tobacco of
513 the Department of Business and Professional Regulation and shall
514 contain:

515 (a) The date and time of issuance.

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

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

519 (d) The facts constituting reasonable cause.

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

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

522 (g) The procedure for the person to follow in order to
523 contest the citation, perform the required community service,
524 attend the required anti-tobacco or anti-tobacco and anti-
525 nicotine program, or ~~to~~ pay the civil penalty.

526 Section 16. Section 569.14, Florida Statutes, is amended
 527 to read:

528 569.14 Posting of a sign stating that the sale of tobacco
 529 products or nicotine products to persons under 21 ~~18~~ years of
 530 age is unlawful; enforcement; penalty.—

531 (1) A dealer that sells tobacco products shall post a
 532 clear and conspicuous sign in each place of business where such
 533 products are sold which substantially states the following:
 534 THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 21 ~~18~~
 535 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

536 (2) A dealer that sells tobacco products and nicotine
 537 products or nicotine dispensing devices, ~~as defined in s.~~
 538 ~~877.112,~~ may use a sign that substantially states the following:

540 THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR
 541 NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE
 542 OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS
 543 REQUIRED FOR PURCHASE.

544
 545 A dealer that uses a sign as described in this subsection meets
 546 the signage requirements of subsection (1) and s. 569.43(1) ~~s.~~
 547 ~~877.112.~~

548 (3) The division shall make available to dealers of
 549 tobacco products signs that meet the requirements of subsection
 550 (1) or subsection (2).

551 (4) Any dealer that sells tobacco products shall provide
 552 at the checkout counter in a location clearly visible to the
 553 dealer or the dealer's agent or employee instructional material
 554 in a calendar format or similar format to assist in determining
 555 whether a person is of legal age to purchase tobacco products.
 556 This point of sale material must contain substantially the
 557 following language:

558 IF YOU WERE NOT BORN BEFORE THIS DATE

559 (insert date and applicable year)

560 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS,
 561 OR NICOTINE DISPENSING DEVICES.

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

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

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

573 Section 17. Section 569.19, Florida Statutes, is amended
 574 to read:

575 569.19 Annual report.—The division shall report annually

576 with written findings to the Legislature and the Governor by
 577 December 31, on the progress of implementing the enforcement
 578 provisions of this part ~~chapter~~. This must include, but is not
 579 limited to:

- 580 (1) The number and results of compliance visits.
- 581 (2) The number of violations for failure of a retailer to
 582 hold a valid license.
- 583 (3) The number of violations for selling tobacco products
 584 to persons under age 21 ~~18~~, and the results of administrative
 585 hearings on the above and related issues.
- 586 (4) The number of persons under age 21 ~~18~~ cited for
 587 violations of s. 569.11 and sanctions imposed as a result of
 588 citation.

589 Section 18. Section 569.24, Florida Statutes, is created
 590 to read:

591 569.24 Preemption.—

592 (1) As used in this section, the term "minimum age" means
 593 the lawful age to purchase or knowingly possess tobacco products
 594 or nicotine products as set by the state at 21 years of age.

595 (2) The establishment of the minimum age for purchasing or
 596 possessing tobacco products or nicotine products and the
 597 regulation of the marketing, sale, or delivery of tobacco
 598 products or nicotine products is preempted to the state.

599 Section 19. Section 569.31, Florida Statutes, is created
 600 to read:

601 569.31 Definitions.—As used in this part, the term:
 602 (1) "Any person under the age of 21" does not include any
 603 person under the age of 21 who:
 604 (a) Is in the military reserve or on active duty in the
 605 Armed Forces of the United States; or
 606 (b) Is acting in his or her scope of lawful employment.
 607 (2) "Dealer" has the same meaning as the term "retail
 608 nicotine products dealer" as defined in this section.
 609 (3) "Division" means the Division of Alcoholic Beverages
 610 and Tobacco of the Department of Business and Professional
 611 Regulation.
 612 (4) "Nicotine dispensing device" means any product that
 613 employs an electronic, chemical, or mechanical means to produce
 614 vapor or aerosol from a nicotine product, including, but not
 615 limited to, an electronic cigarette, electronic cigar,
 616 electronic cigarillo, electronic pipe, or other similar device
 617 or product, any replacement cartridge for such device, and any
 618 other container of nicotine in a solution or other form intended
 619 to be used with or within an electronic cigarette, electronic
 620 cigar, electronic cigarillo, electronic pipe, or other similar
 621 device or product.
 622 (5) "Nicotine product" means any product that contains
 623 nicotine, including liquid nicotine, which is intended for human
 624 consumption, whether inhaled, chewed, absorbed, dissolved, or
 625 ingested by any means. The term also includes any nicotine

626 dispensing device. The term does not include a:

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

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

631 (c) Product that contains incidental nicotine.

632 (6) "Permit" has the same meaning as the term "retail
633 nicotine products dealer permit" as defined in this section.

634 (7) "Retail nicotine products dealer" means the holder of
635 a retail nicotine products dealer permit.

636 (8) "Retail nicotine products dealer permit" means a
637 permit issued by the division under s. 569.32.

638 (9) "Self-service merchandising" means the open display of
639 nicotine products, whether packaged or otherwise, for direct
640 retail customer access and handling before purchase without the
641 intervention or assistance of the dealer or the dealer's owner,
642 employee, or agent. An open display of such products and devices
643 includes the use of an open display unit.

644 Section 20. Section 569.32, Florida Statutes, is created
645 to read:

646 569.32 Retail nicotine products dealer permits;
647 application; qualifications; renewal; duplicates.—

648 (1)(a) Each person, firm, association, or corporation that
649 seeks to deal, at retail, in nicotine products within the state,
650 or to allow a nicotine products vending machine to be located on

651 its premises in the state, must obtain a retail nicotine
652 products dealer permit for each place of business or premises at
653 which nicotine products are sold. Each dealer owning, leasing,
654 furnishing, or operating vending machines through which nicotine
655 products are sold must obtain a permit for each machine and
656 shall post the permit in a conspicuous place on or near the
657 machine; however, if the dealer has more than one vending
658 machine at a single location or if nicotine products are sold
659 both over the counter and through a vending machine at a single
660 location, the dealer need obtain only one permit for that
661 location.

662 (b) Application for a permit must be made on a form
663 furnished by the division and must set forth the name under
664 which the applicant transacts or intends to transact business,
665 the address of the location of the applicant's place of business
666 within the state, and any other information the division
667 requires. If the applicant has or intends to have more than one
668 place of business dealing in nicotine products within the state,
669 a separate application must be made for each place of business.
670 If the applicant is a firm or an association, the application
671 must set forth the names and addresses of the persons
672 constituting the firm or association; if the applicant is a
673 corporation, the application must set forth the names and
674 addresses of the principal officers of the corporation. The
675 application must also set forth any other information prescribed

676 by the division for the purpose of identifying the applicant
677 firm, association, or corporation. The application must be
678 signed and verified by oath or affirmation by the owner, if a
679 sole proprietor, or, if the owner is a firm, association, or
680 partnership, by the members or partners thereof, or, if the
681 owner is a corporation, by an executive officer of the
682 corporation or by a person authorized by the corporation to sign
683 the application, together with the written evidence of this
684 authority.

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

688 (b) The division may refuse to issue a permit to any
689 person, firm, association, or corporation the permit of which
690 has been revoked, to any corporation an officer of which has had
691 his or her permit revoked, or to any person who is or has been
692 an officer of a corporation the permit of which has been
693 revoked. Any permit issued to a firm, association, or
694 corporation prohibited from obtaining a permit under this part
695 shall be revoked by the division.

696 (3) Upon approval of an application for a permit, the
697 division shall issue to the applicant a permit for the place of
698 business or premises specified in the application. A permit is
699 not assignable and is valid only for the person in whose name
700 the permit is issued and for the place designated in the permit.

701 The permit shall be conspicuously displayed at all times at the
702 place for which it is issued.

703 Section 21. Section 569.33 Florida Statutes, is created to
704 read:

705 569.33 Consent to inspection and search without warrant.-
706 An applicant for a retail nicotine products dealer permit, by
707 accepting the permit when issued, agrees that the place or
708 premises covered by the permit is subject to inspection and
709 search without a search warrant by the division or its
710 authorized assistants, and by sheriffs, deputy sheriffs, or
711 police officers, to determine compliance with this part.

712 Section 22. Section 569.34, Florida Statutes, is created
713 to read:

714 569.34 Operating without a retail nicotine products dealer
715 permit; penalty.-

716 (1) It is unlawful for a person, firm, association, or
717 corporation to deal, at retail, in nicotine products, in any
718 manner, or to allow a nicotine products vending machine to be
719 located on its premises, without having a retail nicotine
720 products dealer permit as required by s. 569.32. A person who
721 violates this section commits a noncriminal violation,
722 punishable by a fine of not more than \$500.

723 (2) A retail tobacco products dealer, as defined in s.
724 569.002, is not required to have a separate or additional retail
725 nicotine products dealer permit to deal, at retail, in nicotine

726 products within the state, or allow a nicotine products vending
727 machine to be located on its premises in the state. Any retail
728 tobacco products dealer that deals, at retail, in nicotine
729 products or allows a nicotine products vending machine to be
730 located on its premises in the state is subject to, and must be
731 in compliance with, this part.

732 (3) Any person who violates this section shall be cited
733 for such infraction and shall be cited to appear before the
734 county court. The citation may indicate the time, date, and
735 location of the scheduled hearing and must indicate that the
736 penalty for a noncriminal violation is a fine of not more than
737 \$500.

738 (a) A person cited for an infraction under this section
739 may:

- 740 1. Post a \$500 bond; or
741 2. Sign and accept the citation indicating a promise to
742 appear.

743 (b) A person cited for a violation of this section may:

- 744 1. Pay the fine, either by mail or in person, within 10
745 days after receiving the citation; or
746 2. If the person has posted bond, forfeit the bond by not
747 appearing at the scheduled hearing.

748 (c) If the person pays the fine or forfeits the bond, the
749 person is deemed to have admitted to a violation of this section
750 and to have waived the right to a hearing on the issue of

751 commission of the violation. Such admission may not be used as
752 evidence in any other proceeding.

753 (d) The court, after a hearing, shall make a determination
754 as to whether an infraction has been committed. If the
755 commission of an infraction has been proven beyond a reasonable
756 doubt, the court may impose a civil penalty in an amount that
757 may not exceed \$500.

758 (e) If a person is found by the court to have committed
759 the infraction, that person may appeal that finding to the
760 circuit court.

761 Section 23. Section 569.35, Florida Statutes, is created
762 to read:

763 569.35 Retail nicotine product dealers; administrative
764 penalties.—The division may suspend or revoke the permit of a
765 dealer, including the retail tobacco products dealer permit of a
766 retail tobacco products dealer as defined in s. 569.002, upon
767 sufficient cause appearing of the violation of any of the
768 provisions of this part by a dealer or by a dealer's agent or
769 employee. The division may also assess and accept an
770 administrative fine of up to \$1,000 against a dealer for each
771 violation. The division shall deposit all fines collected into
772 the General Revenue Fund as collected. An order imposing an
773 administrative fine becomes effective 15 days after the date of
774 the order. The division may suspend the imposition of a penalty
775 against a dealer, conditioned upon the dealer's compliance with

776 terms the division considers appropriate.

777 Section 24. Section 569.37, Florida Statutes, is created
778 to read:

779 569.37 Sale or delivery of nicotine products;
780 restrictions.-

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

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

786 (b) Sales from a vending machine are prohibited under
787 paragraph (a) and are only permissible from a machine that is
788 equipped with an operational lockout device which is under the
789 control of the dealer or the dealer's agent or employee who
790 directly regulates the sale of items through the machine by
791 triggering the lockout device to allow the dispensing of one
792 nicotine product. The lockout device must include a mechanism to
793 prevent the machine from functioning if the power source for the
794 lockout device fails or if the lockout device is disabled, and a
795 mechanism to ensure that only one nicotine product is dispensed
796 at a time.

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

800 (b) A dealer that sells nicotine products may not place

801 such products or devices in an open display unit unless the unit
802 is located in an area that is inaccessible to customers.

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

806 (4) A dealer or a dealer's agent or employee must require
807 proof of age of a purchaser of a nicotine product before selling
808 the product to that person, unless the purchaser appears to be
809 30 years of age or older.

810 Section 25. Section 569.38, Florida Statutes, is created
811 to read:

812 569.38 Gift of sample nicotine products.—The gift of
813 sample nicotine products to any person under the age of 21 by an
814 entity permitted under this part, or by an employee of such
815 entity, is prohibited and is punishable as provided in s.
816 569.41.

817 Section 26. Section 569.381, Florida Statutes, is created
818 to read:

819 569.381 Responsible retail nicotine products dealers;
820 qualifications; mitigation of disciplinary penalties; diligent
821 management and supervision; presumption.—

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

826 (2) To qualify as a responsible retail nicotine products
827 dealer, the dealer must establish and implement procedures
828 designed to ensure that the dealer's employees comply with this
829 part. The dealer must provide a training program for the
830 dealer's employees which addresses the use and sale of nicotine
831 products and which includes at least the following topics:

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

833 (b) Methods of recognizing and handling customers under 21
834 years of age.

835 (c) Procedures for proper examination of identification
836 cards in order to verify that customers are not under 21 years
837 of age.

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

840 (3) In determining penalties under s. 569.35, the division
841 may mitigate penalties imposed against a dealer because of an
842 employee's illegal sale of a nicotine product to a person under
843 21 years of age if the following conditions are met:

844 (a) The dealer is qualified as a responsible dealer under
845 this section.

846 (b) The dealer provided the training program required
847 under subsection (2) to that employee before the illegal sale
848 occurred.

849 (c) The dealer had no knowledge of that employee's
850 violation at the time of the violation and did not direct,

851 approve, or participate in the violation.

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

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

858 (5) Dealers shall exercise diligence in the management and
859 supervision of their premises and in the supervision and
860 training of their employees, agents, or servants. In proceedings
861 to impose penalties under s. 569.35, proof that employees,
862 agents, or servants of the dealer, while in the scope of their
863 employment, committed at least three violations of s. 569.41
864 during a 180-day period shall be prima facie evidence of a lack
865 of due diligence by the dealer in the management and supervision
866 of his or her premises and in the supervision and training of
867 employees, agents, officers, or servants.

868 (6) The division may consider qualification as a
869 responsible retail nicotine products dealer under this section
870 as evidence that the dealer properly exercised the diligence
871 required under this section.

872 Section 27. Section 569.39, Florida Statutes, is created
873 to read:

874 569.39 Rulemaking authority.—The division shall adopt
875 rules to administer and enforce this part.

876 Section 28. Section 569.41, Florida Statutes, is created
877 to read:

878 569.41 Selling, delivering, bartering, furnishing, or
879 giving nicotine products to persons under 21 years of age;
880 criminal penalties; defense.-

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

884 (2) Any person who violates subsection (1) commits a
885 misdemeanor of the second degree, punishable as provided in s.
886 775.082 or s. 775.083. However, any person who violates
887 subsection (1) for a second or subsequent time within 1 year
888 after the first violation commits a misdemeanor of the first
889 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

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

898 (c) Such person carefully checked a driver license or an
899 identification card issued by the state or another state of the
900 United States, a passport, or a United States Armed Services

901 identification card presented by the buyer or recipient and
902 acted in good faith and in reliance upon the representation and
903 appearance of the buyer or recipient in the belief that the
904 buyer or recipient was 21 years of age or older.

905 Section 29. Section 569.42, Florida Statutes, is created
906 to read:

907 569.42 Possession, misrepresenting age or military service
908 to purchase, and purchase of nicotine products by persons under
909 21 years of age prohibited; penalties; jurisdiction; disposition
910 of fines.—

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

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

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

921
922 Any second or subsequent violation not within the 12-week period
923 after the first violation is punishable as provided for a first
924 violation.

925 (2) It is unlawful for any person under 21 years of age to

926 misrepresent his or her age or military service for the purpose
927 of inducing a dealer or an agent or employee of the dealer to
928 sell, give, barter, furnish, or deliver any nicotine product, or
929 to purchase, or attempt to purchase, any nicotine product from a
930 person or a vending machine. Any person under 21 years of age
931 who violates this subsection commits a noncriminal violation as
932 defined in s. 775.08(3), punishable by:

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

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

939
940 Any second or subsequent violation not within the 12-week period
941 after the first violation is punishable as provided for a first
942 violation.

943 (3) Any person under 21 years of age cited for committing
944 a noncriminal violation under this section must sign and accept
945 a civil citation indicating a promise to appear before the
946 county court or comply with the requirement for paying the fine
947 and must attend a school-approved anti-tobacco and anti-nicotine
948 program, if locally available. If a fine is assessed for a
949 violation of this section, the fine must be paid within 30 days
950 after the date of the citation or, if a court appearance is

951 mandatory, within 30 days after the date of the hearing.

952 (4) A person charged with a noncriminal violation under
953 this section must appear before the county court or comply with
954 the requirement for paying the fine. The court, after a hearing,
955 shall make a determination as to whether the noncriminal
956 violation was committed. If the court finds the violation was
957 committed, it shall impose an appropriate penalty as specified
958 in subsection (1) or subsection (2). A person who participates
959 in community service shall be considered an employee of the
960 state for the purpose of chapter 440 for the duration of such
961 service.

962 (5) (a) If a person under 21 years of age is found by the
963 court to have committed a noncriminal violation under this
964 section and the person has failed to complete community service,
965 pay the fine as required by paragraph (1) (a) or paragraph
966 (2) (a), or attend a school-approved anti-tobacco and anti-
967 nicotine program, if locally available, the court may direct the
968 Department of Highway Safety and Motor Vehicles to withhold
969 issuance of or suspend the driver license or driving privilege
970 of that person for a period of 30 consecutive days.

971 (b) If a person under 21 years of age is found by the
972 court to have committed a noncriminal violation under this
973 section and that person has failed to pay the applicable fine as
974 required by paragraph (1) (b) or paragraph (2) (b), the court may
975 direct the Department of Highway Safety and Motor Vehicles to

976 withhold issuance of or suspend the driver license or driving
 977 privilege of that person for a period of 45 consecutive days.

978 (6) Eighty percent of all civil penalties received by a
 979 county court under this section shall be remitted by the clerk
 980 of the court to the Department of Revenue for transfer to the
 981 Department of Education to provide for teacher training and for
 982 research and evaluation to reduce and prevent the use of
 983 nicotine products by children. The remaining 20 percent of civil
 984 penalties received by a county court under this section shall
 985 remain with the clerk of the county court to cover
 986 administrative costs.

987 Section 30. Section 569.43, Florida Statutes, is created
 988 to read:

989 569.43 Posting of a sign stating that the sale of nicotine
 990 products or nicotine dispensing devices to persons under 21
 991 years of age is unlawful; enforcement; penalty.-

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

995
 996 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING
 997 DEVICES TO PERSONS UNDER THE AGE OF 21 IS AGAINST
 998 FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

999
 1000 (2) The division shall make available to dealers of

1001 nicotine products signs that meet the requirements of subsection
 1002 (1).

1003 (3) Any dealer that sells nicotine products shall provide
 1004 at the checkout counter in a location clearly visible to the
 1005 dealer or the dealer's agent or employee instructional material
 1006 in a calendar format or similar format to assist in determining
 1007 whether a person is of legal age to purchase nicotine products.
 1008 This point of sale material must contain substantially the
 1009 following language:

1010
 1011 IF YOU WERE NOT BORN BEFORE THIS DATE

1012 (insert date and applicable year)

1013 YOU CANNOT BUY TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR NICOTINE
 1014 DISPENSING DEVICES.

1015
 1016 Upon approval by the division, in lieu of a calendar a dealer
 1017 may use card readers, scanners, or other electronic or automated
 1018 systems that can verify whether a person is of legal age to
 1019 purchase nicotine products. Failure to comply with the
 1020 provisions contained in this subsection shall result in
 1021 imposition of administrative penalties as provided in s. 569.35.

1022 (4) The division, through its agents and inspectors, shall
 1023 enforce this section.

1024 (5) Any person who fails to comply with subsection (1)
 1025 commits a misdemeanor of the second degree, punishable as

1026 provided in s. 775.082 or s. 775.083.

1027 Section 31. Section 569.44, Florida Statutes, is created
1028 to read:

1029 569.44 Annual report.—The division shall report annually
1030 with written findings to the Legislature and the Governor by
1031 December 31 on the progress of implementing the enforcement
1032 provisions of this part. The report must include, but is not
1033 limited to:

1034 (1) The number and results of compliance visits.

1035 (2) The number of violations for failure of a retailer to
1036 hold a valid permit.

1037 (3) The number of violations for selling nicotine products
1038 to persons under age 21, and the results of administrative
1039 hearings on the above and related issues.

1040 (4) The number of persons under age 21 cited for
1041 violations of s. 569.42 and sanctions imposed as a result of
1042 citation.

1043 Section 32. Section 569.45, Florida Statutes, is created
1044 to read:

1045 569.45 Mail order, Internet, and remote sales of nicotine
1046 products; age verification.—

1047 (1) For purposes of this section, the term:

1048 (a) "Consumer" means a person in the state who comes into
1049 possession of any nicotine product who, at the time of
1050 possession, is not intending to sell or distribute the nicotine

1051 product, or is not a retailer.

1052 (b) "Delivery sale" means any sale of nicotine products to
1053 a consumer in the state for which:

1054 1. The consumer submits the order for the sale by
1055 telephonic or other voice transmission, mail, delivery service,
1056 or the Internet or other online service; or

1057 2. The nicotine products are delivered by use of mail or a
1058 delivery service.

1059 (c) "Delivery service" means any person engaged in the
1060 commercial delivery of letters, packages, or other containers.

1061 (d) "Legal minimum purchase age" means the minimum age at
1062 which an individual may legally purchase nicotine products in
1063 the state.

1064 (e) "Retailer" means any person who is required to obtain
1065 a retail nicotine products dealer permit or a retail tobacco
1066 products dealer permit, as those terms are defined in s.
1067 569.002.

1068 (f) "Shipping container" means a container in which
1069 nicotine products are shipped in connection with a delivery
1070 sale.

1071 (g) "Shipping document" means a bill of lading, airbill,
1072 United States Postal Service form, or any other document used to
1073 verify the undertaking by a delivery service to deliver letters,
1074 packages, or other containers.

1075 (2) (a) A sale of nicotine products constituting a delivery

1076 sale as defined in paragraph (1) (b) is a delivery sale
 1077 regardless of whether the person accepting the order for the
 1078 delivery sale is located inside or outside the state.

1079 (b) A retailer must obtain a retail nicotine products
 1080 dealer permit or a retail tobacco products dealer permit, as
 1081 those terms are defined in s. 569.002, from the division under
 1082 the requirements of this chapter before accepting an order for a
 1083 delivery sale.

1084 (c) A person may not make a delivery sale of nicotine
 1085 products to any individual who is not 21 years of age or older.

1086 (d) Each person accepting an order for a delivery sale
 1087 must comply with each of the following:

1088 1. The age verification requirements set forth in
 1089 subsection (3).

1090 2. The disclosure requirements set forth in subsection
 1091 (4).

1092 3. The shipping requirements set forth in subsection (5).

1093 (3) A person may not mail, ship, or otherwise deliver
 1094 nicotine products in connection with an order for a delivery
 1095 sale unless, before the first delivery to the consumer, the
 1096 person accepting the order for the delivery sale:

1097 (a) Obtains from the person submitting the order a
 1098 certification that includes:

1099 1. Reliable confirmation that the person is 21 years of
 1100 age or older; and

1101 2. A statement signed by the person in writing and under
1102 penalty of perjury which:
1103 a. Certifies the address and date of birth of the person;
1104 and
1105 b. Confirms that the person wants to receive delivery
1106 sales from a nicotine products company and understands that,
1107 under the laws of the state, the following actions are illegal:
1108 (I) Signing another person's name to the certification;
1109 (II) Selling nicotine products to individuals who are not
1110 21 years of age or older; and
1111 (III) Purchasing nicotine products, if the person making
1112 the purchase is not 21 years of age or older.
1113 (b) Makes a good faith effort to verify the information
1114 contained in the certification provided by the individual under
1115 paragraph (a) against a commercially available database that may
1116 be reasonably relied upon for accurate age information or
1117 obtains a photocopy or other image of a valid government-issued
1118 identification card stating the date of birth or age of the
1119 individual.
1120 (c) Provides to the individual, via electronic mail or
1121 other means, a notice meeting the requirements of subsection
1122 (4).
1123 (d) If an order for nicotine products is made pursuant to
1124 an advertisement on the Internet, receives payment for the
1125 delivery sale from the consumer by a credit or debit card issued

1126 in the name of the consumer, or by personal or company check of
1127 the consumer.

1128 (e) Submits, to each credit card acquiring company with
1129 which the person has credit card sales, identification
1130 information in an appropriate form and format so that the words
1131 "nicotine product" may be printed in the purchaser's credit card
1132 statement when a purchase of a nicotine product is made by
1133 credit card payment.

1134 (f) Makes a telephone call after 5 p.m. to the purchaser
1135 confirming the order before shipping the nicotine products. The
1136 telephone call may be a person-to-person call or a recorded
1137 message. The person accepting the order for delivery sale is not
1138 required to speak directly with a person and may leave a message
1139 on an answering machine or through voice mail.

1140
1141 In addition to the requirements of this subsection, a person
1142 accepting an order for a delivery sale may request that a
1143 consumer provide an electronic mail address.

1144 (4) The notice described in paragraph (3)(c) must include
1145 prominent and clearly legible statements that sales of nicotine
1146 products are:

1147 (a) Illegal if made to individuals who are not 21 years of
1148 age or older.

1149 (b) Restricted to those individuals who provide verifiable
1150 proof of age in accordance with subsection (3).

1151 (5) Each person who mails, ships, or otherwise delivers
1152 nicotine products in connection with an order for a delivery
1153 sale must:

1154 (a) Include as part of the shipping documents, in a clear
1155 and conspicuous manner, the following statement: "Nicotine
1156 Products: Florida law prohibits shipping to individuals under 21
1157 years of age."

1158 (b) Use a method of mailing, shipping, or delivery which
1159 obligates the delivery service to require:

1160 1. The individual submitting the order for the delivery
1161 sale or another person 21 years of age or older who resides at
1162 the individual's address to sign his or her name to accept
1163 delivery of the shipping container. Proof of the legal minimum
1164 purchase age of the individual accepting delivery is required
1165 only if the individual appears to be under 30 years of age.

1166 2. Proof that the individual is either the addressee or
1167 the individual who is 21 years of age or older designated by the
1168 addressee, in the form of a valid, government-issued
1169 identification card bearing a photograph of the individual who
1170 signs to accept delivery of the shipping container.

1171
1172 If the person accepting a purchase order for a delivery sale
1173 delivers the nicotine products without using a delivery service,
1174 the person must comply with all of the requirements of this
1175 section which apply to a delivery service. Any failure to comply

1176 with a requirement of this section constitutes a violation of
1177 this section.

1178 (6) This section does not apply to delivery sales of
1179 nicotine products to a retail nicotine products dealer or a
1180 retail tobacco products dealer, as those terms are defined in s.
1181 569.002.

1182 (7) An individual 21 years of age or older who knowingly
1183 violates any provision of this section commits a misdemeanor of
1184 the second degree, punishable as provided in s. 775.082 or s.
1185 775.083.

1186 (8) The Attorney General, the Attorney General's designee,
1187 or a state attorney may bring an action in the appropriate court
1188 in the state to prevent or restrain violations of this section
1189 by any person.

1190 Section 33. Section 877.112, Florida Statutes, is
1191 repealed.

1192 Section 34. This act shall take effect October 1, 2021.