

1 A bill to be entitled

2 An act relating to nicotine products and dispensing
3 devices; reordering and amending s. 569.31, F.S.;
4 revising and defining terms for purposes of part II of
5 ch. 569, F.S.; creating s. 569.311, F.S.; requiring
6 nicotine product manufacturers who sell nicotine
7 dispensing products in this state to execute and
8 deliver a form, under penalty of perjury, to the
9 Division of Alcoholic Beverages and Tobacco of the
10 Department of Business and Professional Regulation for
11 each dispensing device sold within this state which
12 meets certain criteria; specifying requirements for
13 the form prescribed by the division; requiring
14 nicotine product manufacturers to submit certain
15 additional materials when submitting the form to the
16 division; requiring a manufacturer to notify the
17 division of certain events; requiring the division to
18 develop and maintain a directory listing certified
19 nicotine product manufacturers and certified nicotine
20 dispensing devices by a specified date; specifying
21 requirements for the directory; requiring the division
22 to establish rules to provide notice to a nicotine
23 product manufacturer before removal of the
24 manufacturer or any of its nicotine dispensing devices
25 from the directory; providing for administrative

26 review of action by the division regarding the
27 directory; providing penalties for certain violations
28 by manufacturers; subjecting retail and wholesale
29 nicotine products dealers to inspections or audits to
30 ensure compliance; requiring the division to publish
31 findings of such inspections and audits and make them
32 available to the public; authorizing the division to
33 adopt certain procedures by rule; authorizing the
34 division to take certain actions against nicotine
35 product manufacturers who fail to provide certain
36 documents or information; requiring all fines to be
37 deposited into the General Revenue Fund; creating s.
38 569.312, F.S.; requiring specified manufacturers and
39 dealers of nicotine dispensing devices to maintain
40 certain records for a specified timeframe; requiring
41 such manufacturers and dealers to timely comply with
42 division requests to produce records; authorizing the
43 division to examine such records for specified
44 purposes; providing for enforcement; authorizing the
45 division to assess administrative fines for
46 noncompliance and requiring all fines to be deposited
47 into the General Revenue Fund; creating s. 569.313,
48 F.S.; prohibiting the sale, shipment, or distributing
49 of certain nicotine dispensing devices from being sold
50 for retail sale in this state; providing a criminal

51 penalty; authorizing the division to assess fines and
52 requiring all fines to be deposited into the General
53 Revenue Fund; creating s. 569.316, F.S.; requiring
54 persons or entities that seek to deal or sell certain
55 nicotine products to retail dealers to obtain a
56 wholesale nicotine products dealer permit; specifying
57 requirements and limitations regarding the issuance of
58 such permits; specifying conditions under which the
59 division may refuse to issue a permit; providing
60 requirements and limitations for permit holders;
61 providing that a wholesale dealer or a distributing
62 agent do not need separate or additional wholesale
63 nicotine products permit in this state; creating s.
64 569.317, F.S.; requiring wholesale nicotine products
65 dealer permit holders to purchase and sell for retail
66 sale only nicotine dispensing devices listed in the
67 division's directory; authorizing the division to
68 suspend or revoke a permit if a violation is deemed to
69 have occurred; authorizing the division to assess
70 administrative penalties for violations and requiring
71 all fines to be deposited into the General Revenue
72 Fund; amending s. 569.32, F.S.; requiring that retail
73 nicotine products dealer permits be issued annually;
74 providing procedures for the renewal of permits;
75 requiring the division to levy a delinquent fee under

76 certain circumstances; requiring the division to adopt
77 by rule a certain procedure for the submittal of
78 applications; prohibiting the division from granting
79 exemptions from permit fees; making technical changes;
80 amending s. 569.33, F.S.; providing that holders of a
81 wholesale nicotine products dealer permit must consent
82 to certain inspections and searches without a warrant;
83 amending s. 569.34, F.S.; providing criminal penalties
84 for the unlawful sale or dealing of unlisted nicotine
85 dispensing devices; providing criminal penalties for
86 the unauthorized purchase of certain nicotine
87 dispensing devices; authorizing the division to
88 suspend or revoke a permit of a permit holder upon
89 sufficient cause of a violation of part II of ch. 569,
90 F.S.; authorizing the division to assess an
91 administrative penalty for violations and requiring
92 all fines to be deposited into the General Revenue
93 Fund; making technical changes; creating s. 569.345,
94 F.S.; providing for the seizure and destruction of
95 unlawful nicotine dispensing devices in accordance
96 with the Florida Contraband Forfeiture Act; requiring
97 a court with jurisdiction to take certain action;
98 requiring the division to maintain certain records;
99 requiring that costs be borne by the person who held
100 the seized products; creating s. 569.346, F.S.;

101 requiring certain manufacturers of nicotine dispensing
 102 devices to appoint an agent for certain purposes;
 103 requiring such manufacturers to provide certain
 104 notice; appointing the Secretary of State as the agent
 105 to manufacturers who have not appointed an agent;
 106 amending s. 569.002, F.S.; conforming cross-references
 107 to changes made by the act; providing an effective
 108 date.

109

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

111

112 Section 1. Section 569.31, Florida Statutes, is reordered
 113 and amended to read:

114 569.31 Definitions.—As used in this part, the term:

115 (2)~~(1)~~ "Dealer" is synonymous with the term "retail
 116 nicotine products dealer."

117 (3)~~(2)~~ "Division" means the Division of Alcoholic
 118 Beverages and Tobacco of the Department of Business and
 119 Professional Regulation.

120 (4) "FDA" means the United States Food and Drug
 121 Administration.

122 (5)~~(3)~~ "Nicotine dispensing device" means any product that
 123 employs an electronic, chemical, or mechanical means to produce
 124 vapor or aerosol from a nicotine product, including, but not
 125 limited to, an electronic cigarette, electronic cigar,

126 | electronic cigarillo, electronic pipe, or other similar device
127 | or product, any replacement cartridge for such device, and any
128 | other container of nicotine in a solution or other form intended
129 | to be used with or within an electronic cigarette, electronic
130 | cigar, electronic cigarillo, electronic pipe, or other similar
131 | device or product. For purposes of this definition, each
132 | individual stock keeping unit is considered a separate nicotine
133 | product.

134 | (6)-(4) "Nicotine product" means any product that contains
135 | nicotine, including liquid nicotine, which is intended for human
136 | consumption, whether inhaled, chewed, absorbed, dissolved, or
137 | ingested by any means. The term also includes any nicotine
138 | dispensing device. The term does not include a:

- 139 | (a) Tobacco product, as defined in s. 569.002;
140 | (b) Product regulated as a drug or device by the United
141 | States Food and Drug Administration under Chapter V of the
142 | Federal Food, Drug, and Cosmetic Act; or
143 | (c) Product that contains incidental nicotine.

144 | (7) "Nicotine product manufacturer" means any person that
145 | manufactures nicotine products.

146 | (8)-(5) "Permit" is synonymous with the term "retail
147 | nicotine products dealer permit."

148 | (9)-(6) "Retail nicotine products dealer" means the holder
149 | of a retail nicotine products dealer permit.

150 | (10)-(7) "Retail nicotine products dealer permit" means a

151 permit issued by the division under s. 569.32.

152 ~~(11)-(8)~~ "Self-service merchandising" means the open
153 display of nicotine products, whether packaged or otherwise, for
154 direct retail customer access and handling before purchase
155 without the intervention or assistance of the dealer or the
156 dealer's owner, employee, or agent. An open display of such
157 products and devices includes the use of an open display unit.

158 (12) "Sell" or "sale" means in addition to its common
159 usage meaning, any sale, transfer, exchange, barter, gift, or
160 offer for sale and distribution, in any manner or by any means
161 whatsoever.

162 (13) "Timely filed premarket tobacco product application"
163 means either:

164 (a) An application pursuant to 21 U.S.C. s. 387j for a
165 nicotine dispensing device containing or utilizing nicotine
166 derived from tobacco marketed in the United States as of August
167 8, 2016, that was submitted to the FDA on or before September 9,
168 2020, and accepted for filing; or

169 (b) An application pursuant to 21 U.S.C. s. 387j for a
170 nicotine dispensing device that:

171 1. Is not a single use electronic cigarette, electronic
172 cigar, electronic cigarillo, electronic pipe, or other similar
173 device or product; and

174 2. Contains or utilizes nicotine derived from a non-
175 tobacco source.

176 (14) "Wholesale nicotine products dealer" means the holder
177 of a wholesale nicotine products dealer permit who purchases
178 nicotine dispensing devices or nicotine products from any
179 nicotine product manufacturer.

180 (15) "Wholesale nicotine products dealer permit" means a
181 permit issued by the division under s. 569.316.

182 (1)(9) "Any person under the age of 21" does not include
183 any person under the age of 21 who:

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

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

187 Section 2. Section 569.311, Florida Statutes, is created
188 to read:

189 569.311 Nicotine dispensing device directory.—

190 (1) By December 1, 2024, and annually thereafter, every
191 nicotine product manufacturer that sells nicotine dispensing
192 devices to any person for eventual retail sale in this state
193 shall execute and deliver a form, prescribed by the division,
194 under penalty of perjury for each such nicotine dispensing
195 device sold that attests to meeting either of the following
196 criteria:

197 (a) The manufacturer of a nicotine dispensing device has
198 submitted a timely filed premarket tobacco product application
199 for the nicotine dispensing device pursuant to 21 U.S.C. s. 387j
200 to the FDA, and has received a marketing denial order for the

201 nicotine dispensing device from the FDA, or the application
202 either remains under review by the FDA, or has received a
203 marketing denial order that has been and remains stayed by the
204 FDA or court order, or that has been rescinded by the FDA or
205 vacated by a court; or

206 (b) The nicotine product manufacturer has received a
207 marketing granted order under 21 U.S.C. s. 387j for the nicotine
208 dispensing device from the FDA.

209 (2) Such form shall be delivered to the division. The form
210 prescribed by the division pursuant to subsection (1) must
211 require each nicotine product manufacturer to set forth the name
212 under which the nicotine product manufacturer transacts or
213 intends to transact business, the address of the location of the
214 nicotine product manufacturer's principal place of business, the
215 nicotine product manufacturer's e-mail address, the brand name
216 of the nicotine dispensing device, the device's category
217 including e-liquid, power unit, device, e-liquid cartridge, e-
218 liquid pod, disposable, the device's name, and any flavor
219 utilized with the device that is sold in this state. The
220 division may allow a nicotine product manufacturer to group its
221 nicotine dispensing devices on its certification.

222 (3) In addition to completing the form prescribed by the
223 division pursuant to subsection (1), each nicotine product
224 manufacturer shall provide a copy of the cover page of the
225 granted marketing order issued by the FDA pursuant to 21 U.S.C.

226 s. 387j for each device; a copy of the acceptance letter issued
227 by the FDA pursuant to 21 U.S.C. s. 387j for a timely filed
228 premarket tobacco product application for each device; or a
229 document issued by the FDA or by a court confirming that the
230 premarket tobacco product application has been received and
231 denied, but the order is not yet in effect for each device.

232 (4) Any nicotine product manufacturer submitting a
233 certification pursuant to subsection (1) shall notify the
234 division within 30 days after any material change to the
235 certification, including, but not limited to, issuance by the
236 FDA of any of the following:

237 (a) A denial of a market authorization pursuant to 21
238 U.S.C. s. 387j;

239 (b) An order requiring a nicotine product manufacturer to
240 remove a nicotine dispensing device or nicotine product from the
241 market either temporarily or permanently;

242 (c) Any notice of action taken by the FDA affecting the
243 ability of the nicotine dispensing device to be introduced or
244 delivered in this state for commercial distribution;

245 (d) Any change in policy which results in a nicotine
246 dispensing device becoming an FDA enforcement priority; or

247 (e) Any other change deemed material by the division
248 pursuant to a rule of the division.

249 (5) The division shall develop and maintain a directory
250 listing all nicotine product manufacturers that sell nicotine

251 dispensing devices in this state and the nicotine dispensing
252 devices certified by those manufacturers with the division which
253 comply with this section. The division shall make the directory
254 available January 1, 2025, on its or the Department of Business
255 and Professional Regulation's website. The division shall update
256 the directory as necessary. The division shall establish a
257 process to provide retailers, distributors, and wholesalers
258 notice of the initial publication of the directory and changes
259 made to the directory in the prior month.

260 (6) The division shall establish by rule a process to
261 provide a nicotine product manufacturer notice and an
262 opportunity to cure deficiencies before removing the
263 manufacturer or any of its nicotine dispensing devices from the
264 directory.

265 (a) The division may not remove the nicotine product
266 manufacturer or any of its nicotine dispensing devices from the
267 directory until at least 30 days after the nicotine product
268 manufacturer has been given notice of an intended action. Notice
269 is sufficient and deemed immediately received by a nicotine
270 product manufacturer if the notice is sent either electronically
271 or by facsimile to an e-mail address or facsimile number
272 provided by the nicotine product manufacturer in its most recent
273 certification filed under subsection (1).

274 (b) The nicotine product manufacturer has 15 days from the
275 date of service of the notice of the division's intended action

276 to establish that the nicotine product manufacturer or any of
277 its nicotine dispensing devices should be included on the
278 directory.

279 (c) A determination by the division not to include or to
280 remove from the directory a nicotine product manufacturer or
281 nicotine dispensing device is subject to review under chapter
282 120. If a nicotine product manufacturer seeks review of removal
283 from the directory, the division must keep the nicotine
284 dispensing device on the directory until conclusion of the
285 hearing.

286 (d) If a nicotine dispensing device is removed from the
287 directory, each retailer and each wholesaler holding nicotine
288 dispensing devices for eventual sale to a consumer in this state
289 has 30 days from the day such product is removed from the
290 directory to sell the product or remove the product from its
291 inventory. After 30 days following removal from the directory,
292 the product identified in the notice of removal is contraband
293 and subject to s. 569.345.

294 (7)(a) Except as provided in subsections (b) and (c),
295 beginning March 1, 2025, or on the date that the division first
296 makes the directory available for public inspection on its or
297 the Department of Business and Professional Regulation's
298 website, whichever is later, a nicotine product manufacturer
299 that offers for sale in this state a nicotine dispensing device
300 not listed on the directory is subject to a fine of \$1,000 per

301 day for each individual nicotine dispensing device offered for
302 sale in violation of this section until the offending product is
303 removed from the market or until the offending product is
304 properly listed on the directory.

305 (b) Each retailer shall have 60 days from the date that
306 the division first makes the directory available for inspection
307 on its public website to sell products that were in its
308 inventory and not included on the directory or remove those
309 products from inventory.

310 (c) Each distributor or wholesaler shall have 60 days from
311 the date that the division first makes the directory available
312 for inspection on its public website to remove from inventory
313 those products intended for eventual retail sale to a consumer
314 in this state.

315 (8) A nicotine product manufacturer that falsely
316 represents any of the information required by subsection (1) or
317 subsection (2) commits a felony of the third degree for each
318 false representation, punishable as provided in s. 775.082 or s.
319 775.083.

320 (9) Each retail nicotine products dealer and wholesale
321 nicotine products dealer is subject to unannounced inspections
322 or audit checks by the division for purposes of enforcing this
323 section. The division shall conduct unannounced follow-up
324 compliance checks of all noncompliant retail nicotine products
325 dealers or wholesale nicotine products dealers within 30 days

326 after any violation of this section. The division shall publish
 327 the results of all inspections or audits at least annually and
 328 shall make the results available to the public on request.

329 (10) The division may establish by rule a procedure to
 330 allow nicotine product manufacturers to renew certifications
 331 without having to resubmit all the information required by this
 332 section.

333 (11) The failure of a nicotine product manufacturer to
 334 provide information or documents required by this section may
 335 result in a nicotine dispensing device not being included on the
 336 directory or the removal of a nicotine dispensing device from
 337 the directory. The division may assess an administrative fine of
 338 up to \$1,000 for each nicotine dispensing device offered for
 339 sale in this state if a nicotine product manufacturer fails to
 340 provide notice to the division of a material change to its
 341 certification within 30 days after that material change. The
 342 division shall deposit all fines collected into the General
 343 Revenue Fund. An order imposing an administrative fine becomes
 344 effective 15 days after the date of the order.

345 Section 3. Section 569.312, Florida Statutes, is created
 346 to read:

347 569.312 Maintenance and inspection of nicotine dispensing
 348 device records.—

349 (1) Each nicotine product manufacturer that sells nicotine
 350 dispensing devices in this state shall maintain and keep for a

351 period of 3 years, at the address listed on the certification
352 required pursuant to s. 569.311, a complete and accurate record
353 of the number of nicotine dispensing devices sold or delivered
354 to a wholesaler in this state and to whom each nicotine
355 dispensing device was sold on a wholesale basis, including the
356 business name, license number, shipping and business addresses,
357 e-mail address, and telephone number for the person or entity to
358 which each product was sold. Such records may be kept in an
359 electronic or paper format.

360 (2) Each retail nicotine products dealer; wholesale
361 nicotine product dealer; wholesale dealer, as defined in s.
362 210.01(6); and distributing agent, as defined in s. 210.01(14),
363 shall maintain and keep for a period of 3 years at its principal
364 place of business a complete and accurate record of the quantity
365 of each nicotine dispensing device received, delivered, or sold
366 in this state and to whom each nicotine dispensing device was
367 sold or delivered or from whom the business received each
368 nicotine dispensing device, including the business name, license
369 number, shipping and business addresses, e-mail address, and
370 telephone number for the person or entity to which each product
371 was sold or delivered or from which each product was received.
372 Such records may be kept in an electronic or paper format.

373 (3) Nicotine product manufacturers that sell nicotine
374 dispensing devices in this state; retail nicotine products
375 dealers; wholesale nicotine products dealers; wholesale dealers,

376 as defined in s. 210.01(6); and distributing agents, as defined
377 in s. 210.01(14), who sell or deliver nicotine dispensing
378 devices directly to consumers are not required to keep and
379 maintain the name, address, e-mail address, and telephone number
380 of consumers who purchase or receive nicotine dispensing
381 devices.

382 (4) Within 7 calendar days after receiving a request by
383 the division, a nicotine product manufacturer that sells
384 nicotine dispensing devices in this state, including a
385 manufacturer selling nicotine dispensing devices directly to
386 consumers; a retail nicotine products dealer; a wholesale
387 nicotine products dealer; a wholesale dealer, as defined in s.
388 210.01(6); and a distributing agent, as defined in s.
389 210.01(14), shall provide to the division or its duly authorized
390 representative copies of records related to the nicotine
391 dispensing devices received, delivered, or sold in this state
392 and to whom those nicotine dispensing devices were sold or
393 delivered or from whom they were received.

394 (5) The division, or a designated employee thereof, may
395 examine the records required to be maintained by each nicotine
396 product manufacturer, retail nicotine products dealer, wholesale
397 nicotine products dealer, wholesale dealer, as defined in s.
398 210.01(6), and distributing agent, as defined in s. 210.01(14);
399 issue subpoenas to such persons or entities; administer oaths;
400 and take depositions of witnesses within or outside of this

401 state. The division, or a designated employee thereof, may
402 issue and serve subpoenas and subpoenas duces tecum to compel
403 the attendance of witnesses and the production of all records,
404 books, papers and documents relevant to an examination or
405 investigation. Subpoenas shall be served and enforceable in the
406 manner provided by law and the division may enforce such in the
407 same manner provided in s. 210.161. The subpoena issued by the
408 division, or any designated employee, may be used to compel such
409 witness to appear before the division, or any designated
410 employee, and give his or her testimony, and to produce such
411 records as may be required for examination. The division, or any
412 designated employee, may bring an action against a witness who
413 refuses to appear or testify before the circuit court. Failure
414 to comply with such subpoena may be punishable as contempt of
415 court. The division may in such cases pay such attendance and
416 mileage fees as are permitted to be paid to witnesses in civil
417 cases appearing before the circuit court.

418 (6) The division may assess an administrative fine of up
419 to \$1,000 for each violation of this section. The division shall
420 deposit all fines collected into the General Revenue Fund. An
421 order imposing an administrative fine becomes effective 15 days
422 after the date of the order.

423 Section 4. Section 569.313, Florida Statutes, is created
424 to read:

425 569.313 Shipment of unregistered nicotine dispensing

426 devices sold for retail sale in this state.—

427 (1) A nicotine product manufacturer may not sell, ship, or
 428 otherwise distribute a nicotine dispensing device in this state
 429 for eventual retail sale to a consumer in this state for which:

430 (a) The FDA has entered an order requiring the nicotine
 431 product manufacturer to remove the product from the market
 432 either temporarily or permanently, which order has not been
 433 stayed by the FDA or a court of competent jurisdiction;

434 (b) The nicotine product manufacturer has not submitted a
 435 timely filed premarket tobacco product application for a
 436 nicotine dispensing device that remains pending with the FDA; or

437 (c) The nicotine product manufacturer has not submitted
 438 the certification required under this chapter for any of the
 439 nicotine dispensing devices intended for eventual retail sale to
 440 a consumer in this state.

441 (2) Any person who knowingly ships or receives nicotine
 442 dispensing devices in violation of this section commits a
 443 misdemeanor of the first degree, punishable as provided in s.
 444 775.082 or s. 775.083.

445 (3) The division may also assess an administrative fine of
 446 up to \$5,000 for each violation. The division shall deposit all
 447 finances collected into the General Revenue Fund. An order imposing
 448 an administrative fine becomes effective 15 days after the date
 449 of the order.

450 Section 5. Section 569.316, Florida Statutes, is created

451 to read:

452 569.316 Wholesale nicotine products dealer permits;
453 application; qualifications; renewal; duplicates.-

454 (1)(a) Each person, firm, association, or corporation that
455 seeks to deal, at wholesale, in nicotine products that will be
456 sold at retail within this state, or to sell nicotine products
457 or nicotine dispensing devices to any retail nicotine products
458 dealer who intends to sell those nicotine products in this
459 state, must obtain a wholesale nicotine products dealer permit
460 for each place of business or premises at which nicotine
461 products are sold.

462 (b) Application for a wholesale nicotine products dealer
463 permit must be made on a form furnished by the division and must
464 set forth the name under which the applicant transacts or
465 intends to transact business, the address of the location of the
466 applicant's place of business, the applicant's e-mail address,
467 and any other information the division requires. If the
468 applicant has or intends to have more than one place of business
469 dealing in nicotine products or nicotine dispensing devices, a
470 separate application must be made for each place of business. If
471 the applicant is a firm or an association, the application must
472 set forth the names, e-mail addresses, and addresses of the
473 persons constituting the firm or association. If the applicant
474 is a corporation, the application must set forth the names, e-
475 mail addresses, and addresses of the principal officers of the

476 corporation. The application must also set forth any other
477 information prescribed by the division for the purpose of
478 identifying the applicant firm, association, or corporation. The
479 application must be signed and verified by oath or affirmation
480 by the owner, if a sole proprietor; if the owner is a firm,
481 association, or partnership, by the members or partners thereof;
482 or, if the owner is a corporation, by an executive officer of
483 the corporation or by a person authorized by the corporation to
484 sign the application, together with the written evidence of this
485 authority.

486 (2) (a) Wholesale nicotine products dealer permits may be
487 issued only to persons who are 21 years of age or older or to
488 corporations the officers of which are 21 years of age or older.

489 (b) The division may refuse to issue a wholesale nicotine
490 products dealer permit to any person, firm, association, or
491 corporation whose permit has been revoked by any jurisdiction;
492 to any corporation an officer of which has had such permit
493 revoked by any jurisdiction; or to any person who is or has been
494 an officer of a corporation whose permit has been revoked by any
495 jurisdiction. The division must revoke any wholesale nicotine
496 products dealer permit issued to a firm, an association, or a
497 corporation prohibited from obtaining such permit under this
498 chapter.

499 (3) Upon approval of an application for a wholesale
500 nicotine products dealer permit, the division shall issue to the

501 applicant a wholesale nicotine products dealer permit for the
502 place of business or premises specified in the application. A
503 wholesale nicotine products dealer permit is not assignable and
504 is valid only for the person in whose name the wholesale
505 nicotine products dealer permit is issued and for the place
506 designated in the wholesale nicotine products dealer permit. The
507 wholesale nicotine products dealer permit must be conspicuously
508 displayed at all times at the place for which it is issued.

509 (4) A wholesale dealer, as defined in s. 210.01(6), or a
510 distributing agent, as defined in s. 210.01(14), is not required
511 to have a separate or additional wholesale nicotine products
512 dealer permit to deal, at wholesale, in nicotine dispensing
513 devices within this state. A wholesale dealer, as defined in s.
514 210.01(6), a distributing agent, as defined in s. 210.01(14), or
515 a tobacco products distributor, as defined in s. 210.25(5),
516 which deals, at wholesale, in nicotine dispensing devices is
517 subject to, and must be in compliance with, this chapter.

518 Section 6. Section 569.317, Florida Statutes, is created
519 to read:

520 569.317 Wholesale nicotine products dealer permitholder;
521 administrative penalties.—A wholesale nicotine products dealer
522 permitholder may only purchase and sell for retail sale in this
523 state nicotine dispensing devices contained on the directory
524 created by the division pursuant to s. 569.311. The division may
525 suspend or revoke the wholesale nicotine products dealer permit

526 of a wholesale nicotine products dealer permitholder upon
527 sufficient cause appearing of a violation of this part by a
528 wholesale nicotine products dealer permitholder or its agent or
529 employee. The division may also assess an administrative fine of
530 up to \$5,000 for each violation. The division shall deposit all
531 finest collected into the General Revenue Fund. An order imposing
532 an administrative fine becomes effective 15 days after the date
533 of the order. The division may suspend the imposition of a
534 penalty against a wholesale nicotine products dealer
535 permitholder, conditioned upon compliance with terms the
536 division considers appropriate.

537 Section 7. Section 569.32, Florida Statutes, is amended to
538 read:

539 569.32 Retail nicotine products dealer permits;
540 application; qualifications; renewal; duplicates.—

541 (1)(a) Each person, firm, association, or corporation that
542 seeks to deal, at retail, in nicotine products or nicotine
543 dispensing devices within this ~~the~~ state, or to allow a nicotine
544 products vending machine to be located on its premises in this
545 ~~the~~ state, must obtain a retail nicotine products dealer permit
546 for each place of business or premises at which nicotine
547 products or nicotine dispensing devices are sold. Each dealer
548 owning, leasing, furnishing, or operating vending machines
549 through which nicotine products are sold must obtain a permit
550 for each machine and shall post the permit in a conspicuous

551 place on or near the machine; however, if the dealer has more
552 than one vending machine at a single location or if nicotine
553 products or nicotine dispensing devices are sold both over the
554 counter and through a vending machine at a single location, the
555 dealer need obtain only one permit for that location.

556 (b) Application for a permit must be made on a form
557 furnished by the division and must set forth the name under
558 which the applicant transacts or intends to transact business,
559 the address of the location of the applicant's place of business
560 within this ~~the~~ state, and any other information the division
561 requires. If the applicant has or intends to have more than one
562 place of business dealing in nicotine products or nicotine
563 dispensing devices within this ~~the~~ state, a separate application
564 must be made for each place of business. If the applicant is a
565 firm or an association, the application must set forth the names
566 and addresses of the persons constituting the firm or
567 association; if the applicant is a corporation, the application
568 must set forth the names and addresses of the principal officers
569 of the corporation. The application must also set forth any
570 other information prescribed by the division for the purpose of
571 identifying the applicant firm, association, or corporation. The
572 application must be signed and verified by oath or affirmation
573 by the owner, if a sole proprietor; or, if the owner is a firm,
574 association, or partnership, by the members or partners thereof;
575 or, if the owner is a corporation, by an executive officer of

576 the corporation or by a person authorized by the corporation to
 577 sign the application, together with the written evidence of this
 578 authority.

579 (c) Permits must be issued annually.

580 (d) The holder of a permit may renew the permit each year.

581 A dealer that does not timely renew its permit must pay a late
 582 fee of \$5 for each month or portion of a month occurring after
 583 expiration, and before renewal, of the dealer's permit. The
 584 division shall establish by rule a renewal procedure that, to
 585 the greatest extent feasible, combines the application and
 586 permitting procedure for permits with the application and
 587 licensing system for alcoholic beverages.

588 (e) The division may not grant an exemption from the
 589 permit fees prescribed in this subsection for any applicant.

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

593 (b) The division may refuse to issue a permit to any
 594 person, firm, association, or corporation the permit of which
 595 has been revoked by any jurisdiction; to any corporation an
 596 officer of which has had his or her permit revoked by any
 597 jurisdiction; or to any person who is or has been an officer of
 598 a corporation the permit of which has been revoked by any
 599 jurisdiction. Any permit issued to a firm, an association, or a
 600 corporation prohibited from obtaining a permit under this

601 chapter must ~~shall~~ be revoked by the division.

602 (3) Upon approval of an application for a permit, the
603 division shall issue to the applicant a permit for the place of
604 business or premises specified in the application. A permit is
605 not assignable and is valid only for the person in whose name
606 the permit is issued and for the place designated in the permit.
607 The permit must ~~shall~~ be conspicuously displayed at all times at
608 the place for which issued.

609 Section 8. Section 569.33, Florida Statutes, is amended to
610 read:

611 569.33 Consent to inspection and search without warrant.—
612 An applicant for a retail nicotine products dealer permit or a
613 wholesale nicotine products dealer permit, by accepting the
614 permit when issued, agrees that the place or premises covered by
615 the permit is subject to inspection and search without a search
616 warrant by the division or its authorized assistants, and by
617 sheriffs, deputy sheriffs, or police officers, to determine
618 compliance with this part.

619 Section 9. Section 569.34, Florida Statutes, is amended to
620 read:

621 569.34 Operating without a retail nicotine products dealer
622 permit; penalty.—

623 (1) It is unlawful for a person, a firm, an association,
624 or a corporation to deal, at retail, in nicotine products, in
625 any manner, or to allow a nicotine products vending machine to

626 | be located on its premises, without having a retail nicotine
 627 | product dealer permit as required by s. 569.32. A person who
 628 | violates this subsection ~~section~~ commits a noncriminal
 629 | violation, punishable by a fine of not more than \$500.

630 | (2) A retail tobacco products dealer, as defined in s.
 631 | 569.002(4), is not required to have a separate or additional
 632 | retail nicotine products dealer permit to deal, at retail, in
 633 | nicotine products within this ~~the~~ state, or allow a nicotine
 634 | products vending machine to be located on its premises in this
 635 | ~~the~~ state. Any retail tobacco products dealer that deals, at
 636 | retail, in nicotine products or allows a nicotine products
 637 | vending machine to be located on its premises in this ~~the~~ state,
 638 | is subject to, and must be in compliance with, this part.

639 | (3) Any person who violates subsection (1) ~~must this~~
 640 | ~~section shall~~ be cited for such infraction and must ~~shall~~ be
 641 | cited to appear before the county court. The citation may
 642 | indicate the time, date, and location of the scheduled hearing
 643 | and must indicate that the penalty for a noncriminal violation
 644 | is a fine of not more than \$500.

645 | (a) A person cited for a violation of subsection (1) ~~for~~
 646 | ~~an infraction under this section~~ may:

- 647 | 1. Post a \$500 bond; or
 648 | 2. Sign and accept the citation indicating a promise to
 649 | appear.

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

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

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

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

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

665 (e) If a person is found by the court to have committed
666 the infraction, that person may appeal that finding to the
667 circuit court.

668 (4) On or after March 1, 2025, it is unlawful for a
669 person, a firm, an association, or a corporation in this state
670 to deal, at retail, in nicotine dispensing devices that are not
671 listed on the directory created pursuant to s. 569.311. Any
672 person who knowingly ships or receives nicotine dispensing
673 devices in violation of this section commits a misdemeanor of
674 the second degree, punishable as provided in s. 775.082 or s.
675 775.083.

676 (5) On or after January 1, 2025, it is unlawful for a
677 retail nicotine products dealer in this state, other than a
678 nicotine product manufacturer that also is permitted as a retail
679 nicotine products dealer in this state and is selling its own
680 products directly to consumers, to buy nicotine dispensing
681 devices from a wholesaler, manufacturer, or other source that is
682 not a wholesale nicotine products dealer permitholder, a
683 wholesale dealer, as defined in s. 210.01(6), a distributing
684 agent, as defined in s. 210.01(14), or a tobacco products
685 distributor, as defined in s. 210.25(5). Any person who
686 knowingly ships or receives nicotine dispensing devices in
687 violation of this section commits a misdemeanor of the second
688 degree, punishable as provided in s. 775.082 or s. 775.083.

689 (6) The division may suspend or revoke the permit of a
690 retail nicotine products dealer permitholder upon sufficient
691 cause appearing of a violation of this part by a retail nicotine
692 products dealer permitholder, or its agent or employee. The
693 division may also assess an administrative fine of up to \$1,000
694 for each violation. The division shall deposit all fines
695 collected into the General Revenue Fund. An order imposing an
696 administrative fine becomes effective 15 days after the date of
697 the order.

698 Section 10. Section 569.345, Florida Statutes, is created
699 to read:

700 569.345 Seizure and destruction of contraband nicotine

701 dispensing devices.—All nicotine dispensing devices sold,
702 delivered, possessed, or distributed contrary to any provision
703 of this chapter are declared to be contraband, are subject to
704 seizure and confiscation under the Florida Contraband Forfeiture
705 Act by any person whose duty it is to enforce the provisions of
706 this chapter, and must be disposed of as follows:

707 (1) A court having jurisdiction shall order such nicotine
708 dispensing devices forfeited and destroyed. A record of the
709 place where such nicotine dispensing devices were seized, the
710 kinds and quantities of nicotine dispensing devices destroyed,
711 and the time, place, and manner of destruction must be kept, and
712 a return under oath reporting the destruction must be made to
713 the court by the officer who destroys them.

714 (2) The division shall keep a full and complete record of
715 all nicotine dispensing devices showing:

716 (a) The exact kinds, quantities, and forms of such
717 nicotine dispensing devices;

718 (b) The persons from whom they were received and to whom
719 they were delivered;

720 (c) By whose authority they were received, delivered, and
721 destroyed; and

722 (d) The dates of the receipt, disposal, or destruction,
723 which record must be open to inspection by all persons charged
724 with the enforcement of tobacco and nicotine product laws.

725 (3) The cost of seizure, confiscation, and destruction of

726 contraband nicotine dispensing devices is borne by the person
 727 from whom such products are seized.

728 Section 11. Section 569.346, Florida Statutes, is created
 729 to read:

730 569.346 Agent for service of process.-

731 (1) Any nonresident manufacturer of nicotine dispensing
 732 devices that has not registered to do business in the state as a
 733 foreign corporation or business entity shall, as a condition
 734 precedent to being included on the directory created in this
 735 chapter, appoint and continually engage without interruption the
 736 services of an agent in this state to act as agent for the
 737 service of process on whom all process, and any action or
 738 proceeding against it concerning or arising out of the
 739 enforcement of this chapter, may be served in any manner
 740 authorized by law. Such service shall constitute legal and valid
 741 service of process on the manufacturer. The manufacturer shall
 742 provide the name, address, telephone number, and proof of the
 743 appointment and availability of such agent to the division.

744 (2) The manufacturer shall provide notice to the division
 745 30 calendar days before termination of the authority of an agent
 746 and shall further provide proof to the satisfaction of the
 747 division of the appointment of a new agent no less than 5
 748 calendar days before the termination of an existing agent
 749 appointment. In the event an agent terminates an agency
 750 appointment, the manufacturer shall notify the division of the

751 termination within 5 calendar days and shall include proof to
752 the satisfaction of the division of the appointment of a new
753 agent.

754 (3) Any manufacturer whose nicotine dispensing devices are
755 sold in this state who has not appointed and engaged the
756 services of an agent as required by this section shall be deemed
757 to have appointed the Secretary of State as its agent for
758 service of process. The appointment of the Secretary of State as
759 agent shall not satisfy the condition precedent required in
760 subsection (1) of this subsection to be included or retained on
761 the directory.

762 Section 12. Subsections (3) and (4) of section 569.002,
763 Florida Statutes, are amended to read:

764 569.002 Definitions.—As used in this part, the term:

765 (3) "Nicotine product" has the same meaning as provided in
766 s. 569.31 ~~s. 569.31(4)~~.

767 (4) "Nicotine dispensing device" has the same meaning as
768 provided in s. 569.31 ~~s. 569.31(3)~~.

769 Section 13. For the 2024-2025 fiscal year, the sums of
770 \$278,875 in recurring funds and \$20,268 in nonrecurring funds
771 from the Alcoholic Beverage and Tobacco Trust Fund are
772 appropriated to the Department of Business and Professional
773 Regulation, and four full-time equivalent positions with
774 associated salary rate of 180,000 are authorized, for the
775 purpose of implementing this act

776

Section 14. This act shall take effect October 1, 2024.