



File # 2005014335
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**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY**

ADMINISTRATIVE ORDER # 2005-01-01

**RE: PROCEDURE FOR PROCESSING CHARGES OF POSSESSING
TOBACCO PRODUCTS BY PERSONS UNDER 18 YEARS OF AGE**

Whereas, Section 569.11, Florida Statutes, establishes a non-criminal infraction for a person under the age of 18 years to knowingly possess any tobacco product or to misrepresent his/her age or military service in an attempt to acquire a tobacco product.

Whereas, Section 569.11, Florida Statutes, provides penalties for such violations.

Whereas, Section 322.056, Florida Statutes, further provides sanctions to those persons under the age of 18 years who do not comply with the penalties set forth by Section 569.11, Florida Statutes, and this administrative order.

Whereas, the court has found it necessary to establish procedures for the processing of these cases.

Now Therefore, it is ORDERED and ADJUDGED that the following procedures are hereby approved:

I. Pleas Before the Clerk of Court:

- A. Any person under the age of 18 years charged with a noncriminal violation of Section 569.11, Florida Statutes, may chose to enter a plea of no contest or guilty with the Bay County Clerk of Court.

- B. The Bay County Clerk, upon acceptance of such plea, shall enter an adjudication of guilt and assess the following penalties:

First Violation

1. The defendant shall, at his/her option, either pay a \$25 fine or perform 16 hours of community service work monitored through the Bay County Work Program.
 - a.) If the defendant chooses to pay the \$25 fine, it shall be paid to the Bay County Clerk of Court at the time the plea is entered.
 - b.) If the defendant chooses to perform community service hours, the defendant shall report to the Bay County Work Program after referral by the Bay County Clerk of Court. The Bay County Clerk of Court shall notify the Bay County Work Program of the referral.
2. Additionally, the defendant shall be required to complete a school-approved anti-tobacco program, if locally available.
 - a.) The Bay County Clerk of Court shall provide to local residents information concerning the availability and location of such a program(s).
 - b.) Defendants residing outside Bay County may contact the American Cancer Society at 1-800-227-2345 or the American Lung Association at 1-800-586-4872 to determine whether or not a program is available in their locale.
3. Both the community service hours and completion of the anti-tobacco program must be completed within 30 days after the entry of the plea with the Bay County Clerk of Court.
 - a.) The Bay County Work Program shall forward a *Notice of Completion* to the Bay County Clerk of Court to confirm the completion of the 16 hours of community service hours. Conversely, if the defendant has failed to complete the hours, the Bay County Work Program shall file an affidavit verifying such failure with the Clerk of Court.
 - b.) The defendant is responsible for providing to the Bay County Clerk of Court proof of completion of the anti-tobacco program or a notarized affidavit verifying the unavailability of such program in the defendant's area.

Second Violation Within 12 Weeks After First Violation

The defendant shall pay a \$25 fine at the time that the plea is entered with the Bay County Clerk of Court.

Third or Subsequent Violation Within 12 Weeks After First Violation

The court, through the Clerk of Court, must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend or revoke the defendant's driver's license or driving privilege, as provided in Section 322.056, Florida Statutes.

Subsequent Violation More Than 12 Weeks After the First Violation

Such a violation shall be treated as a first offense.

II. Extensions:

- A. A defendant may request a 30-day extension from the Bay County Clerk of Court, who may grant it without further approval from the court.
- B. Any further extension must be approved by the County Judge assigned to the case.

III. Right to a Hearing:

The defendant may enter a plea of *Not Guilty* and request an infraction hearing before a county judge. If, after the hearing, the court finds that the defendant committed the noncriminal violation, the court shall impose the appropriate penalty as specified above. A fine imposed by the judge must be paid within 30 days.

IV. Failure to Comply:

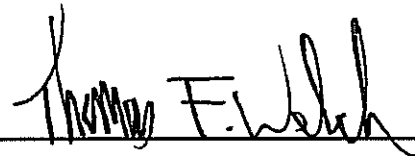
If the defendant has failed to comply with these procedures (i.e., failure to complete community service requirements, failure to pay the applicable fine, or failure to attend a locally available school-approved anti-tobacco program, if available) and the defendant is eligible by reason of age for a driver's license or driving privilege, the Bay County Clerk of Court shall direct the Florida Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the defendant's license or driving privilege as follows:

- ▶ For the first violation, for 30 days;
- ▶ For the second violation within 12 weeks of the first violation, for 45 days;
- ▶ For the third violation within 12 weeks of the first violation, for 60 consecutive days.

V. Evidence:

Any tobacco product retained by a law enforcement officer as a result of issuing a citation for a violation of Section 569.11, Florida Statutes, may be destroyed upon the resolution of the case without any further court order.

DONE and ORDERED in Chambers at Panama City, Bay County, Florida this 24 day of February, 2005.

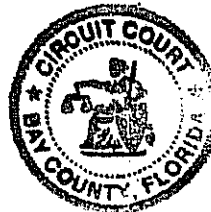


THOMAS F. WELCH

ADMINISTRATIVE COUNTY JUDGE



JUDY M. PITTMAN, CHIEF JUDGE



A CERTIFIED TRUE COPY
PAZZEL CLERK
CIRCUIT COURT

Nanda Maddox
Deputy Clerk