

TOBACCO AGE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to an individual's age and tobacco, tobacco paraphernalia, or electronic smoking devices.

Highlighted Provisions:

This bill:

- ▶ tiers the minimum age for obtaining, possessing, using, providing, or furnishing of tobacco products, paraphernalia, and under certain circumstances, electronic smoking devices from 19 to 20 then to 21 years of age;
- ▶ addresses identification documents; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-8-47, as last amended by Laws of Utah 2018, Chapter 189

26-62-205, as enacted by Laws of Utah 2018, Chapter 231

26-62-304, as renumbered and amended by Laws of Utah 2018, Chapter 231

26-62-305, as renumbered and amended by Laws of Utah 2018, Chapter 231



- 28 [51-9-203](#), as last amended by Laws of Utah 2012, Chapter 242
- 29 [53-3-207](#), as last amended by Laws of Utah 2016, Chapter 350
- 30 [53-3-806](#), as last amended by Laws of Utah 2010, Chapter 276
- 31 [59-14-703](#), as enacted by Laws of Utah 2013, Chapter 148
- 32 [76-10-103](#), as enacted by Laws of Utah 1973, Chapter 196
- 33 [76-10-104](#), as last amended by Laws of Utah 2010, Chapter 114
- 34 [76-10-104.1](#), as last amended by Laws of Utah 2013, Chapter 278
- 35 [76-10-105](#), as last amended by Laws of Utah 2018, Chapter 415
- 36 [76-10-105.1](#), as last amended by Laws of Utah 2018, Chapter 231
- 37 [77-39-101](#), as last amended by Laws of Utah 2018, Chapter 231



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **10-8-47** is amended to read:

41 **10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit**
 42 **larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses**
 43 **and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of**
 44 **controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

45 (1) A municipal legislative body may:

46 (a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights,
 47 bullfights, and all disorderly conduct and provide against and punish the offenses of assault and
 48 battery and petit larceny;

49 (b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street,
 50 house, or place in the city;

51 (c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in
 52 accordance with Section [53-7-225](#), or any other dangerous or combustible material;

53 (d) provide against and prevent the offense of obtaining money or property under false
 54 pretenses and the offense of embezzling money or property in ~~[at]~~ the cases ~~[where]~~ when the
 55 money or property embezzled or obtained under false pretenses does not exceed in value the
 56 sum of \$500; ~~[and]~~

57 (e) prohibit the sale, giving away, or furnishing of narcotics~~[-]~~ or alcoholic beverages to
 58 ~~[a person]~~ an individual younger than 21 years of age~~[-, or tobacco to any person younger than~~

59 ~~19 years of age.]; and~~

60 (f) prohibit the sale, giving away, or furnishing of tobacco or e-cigarettes to an
61 individual younger than:

62 (i) beginning July 1, 2020, and ending December 31, 2020, 20 years of age; and

63 (ii) beginning January 1, 2020, 21 years of age.

64 (2) A city may:

65 (a) by ordinance, prohibit the possession of controlled substances as defined in the
66 Utah Controlled Substances Act or any other endangering or impairing substance, provided the
67 conduct is not a class A misdemeanor or felony; and

68 (b) provide for treatment of alcoholics, narcotic addicts, and other ~~[persons]~~
69 individuals who are addicted to the use of drugs or intoxicants such that ~~[a person]~~ an
70 individual substantially lacks the capacity to control the ~~[person's]~~ individual's use of the drugs
71 or intoxicants, and judicial supervision may be imposed as a means of effecting ~~[their]~~ the
72 individual's rehabilitation.

73 Section 2. Section **26-62-205** is amended to read:

74 **26-62-205. Permit requirements for a retail tobacco specialty business.**

75 A retail tobacco specialty business shall:

76 (1) except as provided in Subsection **76-10-105.1(4)**, prohibit any individual ~~[under 19~~
77 ~~years of age]~~ from entering the business if the individual is:

78 (a) beginning July 1, 2020, and ending December 31, 2020, under 20 years of age; and

79 (b) beginning January 1, 2020, under 21 years of age; and

80 (2) prominently display at the retail tobacco specialty business a sign on the public
81 entrance of the business that communicates the prohibition in Subsection **76-10-105.1(4)**.

82 Section 3. Section **26-62-304** is amended to read:

83 **26-62-304. Hearing -- Evidence of criminal conviction.**

84 (1) At a civil hearing conducted under Section **26-62-302**, evidence of the final
85 criminal conviction of a tobacco retailer or employee for violation of Section **76-10-104** at the
86 same location and within the same time period as the location and time period alleged in the
87 civil hearing for violation of this chapter for sale of tobacco products to ~~[a person]~~ an
88 individual under ~~[the age of 19]~~ the following ages is prima facie evidence of a violation of this
89 chapter[-]:

90 (a) beginning July 1, 2020, and ending December 31, 2020, under 20 years of age; and

91 (b) beginning January 1, 2020, under 21 years of age.

92 (2) If the tobacco retailer is convicted of violating Section 76-10-104, the enforcing
93 agency:

94 (a) may not assess an additional monetary penalty under this chapter for the same
95 offense for which the conviction was obtained; and

96 (b) may revoke or suspend a permit in accordance with Section 26-62-305.

97 Section 4. Section 26-62-305 is amended to read:

98 **26-62-305. Penalties.**

99 (1) (a) If, following an inspection by an enforcing agency, or an investigation or
100 issuance of a citation or information under Section 77-39-101, an enforcing agency determines
101 that a person has violated the terms of a permit issued under this chapter, the enforcing agency
102 may impose the penalties described in this section.

103 (b) If multiple violations are found in a single inspection or investigation, only one
104 violation shall count toward the penalties described in this section.

105 (2) (a) The administrative penalty for a first violation at a retail location is a penalty of
106 not more than \$500.

107 (b) The administrative penalty for a second violation at the same retail location that
108 occurs within one year of a previous violation is a penalty of not more than \$750.

109 (c) The administrative penalty for a third or subsequent violation at the same retail
110 location that occurs within two years after two or more previous violations is:

111 (i) a suspension of the retail tobacco business permit for 30 consecutive business days
112 within 60 days after the day on which the third or subsequent violation occurs; or

113 (ii) a penalty of not more than \$1,000.

114 (3) The department or a local health department may:

115 (a) revoke a permit if a fourth violation occurs within two years of three previous
116 violations;

117 (b) in addition to a monetary penalty imposed under Subsection (2), suspend the permit
118 if the violation is due to a sale of tobacco products to ~~[a person]~~ an individual under ~~[19 years~~
119 ~~of age]~~:

120 (i) beginning July 1, 2020, and ending December 31, 2020, 20 years of age; and

121 (ii) beginning January 1, 2020, 21 years of age; and
122 (c) if applicable, recommend to a municipality or county that a retail tobacco specialty
123 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

124 (4) (a) Except when a transfer described in Subsection (5) occurs, a local health
125 department may not issue a permit to:

126 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (3);

127 or

128 (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner,
129 or other holder of significant interest as another tobacco retailer for whom a permit is
130 suspended or revoked under Subsection (3).

131 (b) A person whose permit:

132 (i) is suspended under this section may not apply for a new permit for any other
133 tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends
134 the permit; and

135 (ii) is revoked may not apply for a new permit for any tobacco retailer for a period of
136 24 months after the day on which an enforcing agency revokes the permit.

137 (5) Violations of this chapter, Section 10-8-41.6, or Section 17-50-333 that occur at a
138 tobacco retailer location shall stay on the record for that tobacco retailer location unless:

139 (a) the tobacco retailer is transferred to a new proprietor; and

140 (b) the new proprietor provides documentation to the local health department that the
141 new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous
142 proprietor.

143 Section 5. Section 51-9-203 is amended to read:

144 **51-9-203. Requirements for tobacco programs.**

145 (1) To be eligible to receive funding under this part for a tobacco prevention, reduction,
146 cessation, or control program, an organization, whether private, governmental, or
147 quasi-governmental, shall:

148 (a) submit a request to the Department of Health containing the following information:

149 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate
150 sound management and periodic evaluation of the campaign's relevance to the intended

151 audience, particularly in campaigns directed toward youth, including audience awareness of the

152 campaign and recollection of the main message;

153 (ii) for school-based education programs to prevent and reduce youth smoking, the
154 request shall describe how the program will be effective in preventing and reducing youth
155 smoking;

156 (iii) for community-based programs to prevent and reduce smoking, the request shall
157 demonstrate that the proposed program:

158 (A) has a comprehensive strategy with a clear mission and goals;

159 (B) provides for committed, caring, and professional leadership; and

160 (C) if directed toward youth:

161 (I) offers youth-centered activities in youth accessible facilities;

162 (II) is culturally sensitive, inclusive, and diverse;

163 (III) involves youth in the planning, delivery, and evaluation of services that affect
164 them; and

165 (IV) offers a positive focus that is inclusive of all youth; and

166 (iv) for enforcement, control, and compliance program, the request shall demonstrate
167 that the proposed program can reasonably be expected to reduce the extent to which tobacco
168 products are available to individuals under ~~[the age of 19]~~ the following ages:

169 (A) beginning July 1, 2020, and ending December 31, 2020, 20 years of age; and

170 (B) beginning January 1, 2020, 21 years of age;

171 (b) agree, by contract, to file an annual written report with the Department of Health[-
172 ~~The report shall contain]~~ that contains the following:

173 (i) the amount funded;

174 (ii) the amount expended;

175 (iii) a description of the program or campaign and the number of adults and youth who
176 participated;

177 (iv) specific elements of the program or campaign meeting the applicable criteria set
178 forth in Subsection (1)(a); and

179 (v) a statement concerning the success and effectiveness of the program or campaign;

180 (c) agree, by contract, to not use any funds received under this part directly or
181 indirectly, to:

182 (i) engage in any lobbying or political activity, including the support of, or opposition

- 183 to, candidates, ballot questions, referenda, or similar activities; or
- 184 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to
- 185 enforce:
- 186 (A) the provisions of the Master Settlement Agreement;
- 187 (B) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 188 (C) Title 26, Chapter [~~42, Civil Penalties for Tobacco Sales to Underage Persons~~] 62,
- 189 Tobacco Retail Permit; and
- 190 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and
- 191 (d) agree, by contract, to repay the funds provided under this part if the organization:
- 192 (i) fails to file a timely report as required by Subsection (1)(b); or
- 193 (ii) uses any portion of the funds in violation of Subsection (1)(c).
- 194 (2) The Department of Health shall review and evaluate the success and effectiveness
- 195 of any program or campaign that receives funding pursuant to a request submitted under
- 196 Subsection (1). The review and evaluation:
- 197 (a) shall include a comparison of annual smoking trends;
- 198 (b) may be conducted by an independent evaluator; and
- 199 (c) may be paid for by funds appropriated from the account for that purpose.
- 200 (3) The Department of Health shall annually report to the Social Services
- 201 Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).
- 202 (4) An organization that fails to comply with the contract requirements set forth in
- 203 Subsection (1) shall:
- 204 (a) repay the state as provided in Subsection (1)(d); and
- 205 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.
- 206 (5) The attorney general shall be responsible for recovering funds that are required to
- 207 be repaid to the state under this section.
- 208 (6) Nothing in this section may be construed as applying to funds that are not
- 209 appropriated under this part.

210 Section 6. Section **53-3-207** is amended to read:

211 **53-3-207. License certificates or driving privilege cards issued to drivers by class**

212 **of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary**

213 **licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**

214 (1) As used in this section:

215 (a) "Driving privilege" means the privilege granted under this chapter to drive a motor
216 vehicle.

217 (b) "Governmental entity" means the state [~~and its political subdivisions as defined in~~
218 ~~this Subsection (1)~~] or a political subdivision of the state.

219 (c) "Political subdivision" means any county, city, town, school district, public transit
220 district, community reinvestment agency, special improvement or taxing district, local district,
221 special service district, an entity created by an interlocal agreement adopted under Title 11,
222 Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public
223 corporation.

224 (d) "State" means this state, and includes any office, department, agency, authority,
225 commission, board, institution, hospital, college, university, children's justice center, or other
226 instrumentality of the state.

227 (2) (a) The division shall issue to every [~~person~~] individual privileged to drive a motor
228 vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege
229 card indicating the type or class of motor vehicle the [~~person~~] individual may drive.

230 (b) [~~A person~~] An individual may not drive a class of motor vehicle unless granted the
231 privilege in that class.

232 (3) (a) Every regular license certificate, limited-term license certificate, or driving
233 privilege card shall bear:

234 (i) the distinguishing number assigned to the [~~person~~] individual by the division;

235 (ii) the name, birth date, and Utah residence address of the [~~person~~] individual;

236 (iii) a brief description of the [~~person~~] individual for the purpose of identification;

237 (iv) any restrictions imposed on the license under Section 53-3-208;

238 (v) a photograph of the [~~person~~] individual;

239 (vi) a photograph or other facsimile of the person's signature;

240 (vii) an indication whether the [~~person~~] individual intends to make an anatomical gift
241 under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege
242 is extended under Subsection 53-3-214(3); and

243 (viii) except as provided in Subsection (3)(b), if the [~~person~~] individual states that the
244 [~~person~~] individual is a veteran of the United States military on the application for a driver

245 license in accordance with Section 53-3-205 and provides verification that the [person]
246 individual was granted an honorable or general discharge from the United States Armed
247 Forces, an indication that the [person] individual is a United States military veteran for a
248 regular license certificate or limited-term license certificate issued on or after July 1, 2011.

249 (b) A regular license certificate or limited-term license certificate issued to [any
250 person] an individual younger than 21 years on a portrait-style format as required in Subsection
251 (5)(b)(~~i~~) is not required to include an indication that the [person] individual is a United States
252 military veteran under Subsection (3)(a)(viii).

253 (c) A new license certificate issued by the division may not bear the [~~person's Social~~
254 ~~Security~~] individual's social security number.

255 (d) (i) The regular license certificate, limited-term license certificate, or driving
256 privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

257 (ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular
258 license certificate, limited-term license certificate, or driving privilege card shall be as
259 prescribed by the commissioner.

260 (iii) The commissioner may also prescribe the issuance of a special type of limited
261 regular license certificate, limited-term license certificate, or driving privilege card under
262 Subsection 53-3-220(4).

263 (4) (a) (i) The division, upon determining after an examination that an applicant is
264 mentally and physically qualified to be granted a driving privilege, may issue to an applicant a
265 receipt for the fee if the applicant is eligible for a regular license certificate or limited-term
266 license certificate.

267 (ii) (A) The division shall issue a temporary regular license certificate or temporary
268 limited-term license certificate allowing the [person] individual to drive a motor vehicle while
269 the division is completing its investigation to determine whether the [person] individual is
270 entitled to be granted a driving privilege.

271 (B) A temporary regular license certificate or a temporary limited-term license
272 certificate issued under this Subsection (4) shall be recognized and have the same rights and
273 privileges as a regular license certificate or a limited-term license certificate.

274 (b) The temporary regular license certificate or temporary limited-term license
275 certificate shall be in the [person's] individual's immediate possession while driving a motor

276 vehicle, and it is invalid when the ~~[person's]~~ individual's regular license certificate or
277 limited-term license certificate has been issued or when, for good cause, the privilege has been
278 refused.

279 (c) The division shall indicate on the temporary regular license certificate or temporary
280 limited-term license certificate a date after which it is not valid as a temporary license.

281 (d) (i) Except as provided in Subsection (4)(d)(ii), the division may not issue a
282 temporary driving privilege card or other temporary permit to an applicant for a driving
283 privilege card.

284 (ii) The division may issue a learner permit issued in accordance with Section
285 [53-3-210.5](#) to an applicant for a driving privilege card.

286 (5) (a) The division shall distinguish learner permits, temporary permits, regular
287 license certificates, limited-term license certificates, and driving privilege cards issued to any
288 ~~[person]~~ individual younger than 21 years of age by use of plainly printed information or the
289 use of a color or other means not used for other regular license certificates, limited-term license
290 certificates, or driving privilege cards.

291 (b) The division shall distinguish a regular license certificate, limited-term license
292 certificate, or driving privilege card issued to ~~[any person: (i)]~~ an individual younger than 21
293 years of age by use of a portrait-style format not used for other regular license certificates,
294 limited-term license certificates, or driving privilege cards and by plainly printing the date the
295 regular license certificate, limited-term license certificate, or driving privilege card holder is 21
296 years of age~~[- which is the legal age for purchasing an alcoholic beverage or alcoholic product
297 under Section [32B-4-403](#); and]~~

298 ~~[(ii) younger than 19 years of age, by plainly printing the date the regular license
299 certificate, limited-term license certificate, or driving privilege card holder is 19 years of age,
300 which is the legal age for purchasing tobacco products under Section [76-10-104](#)].~~

301 (6) The division shall distinguish a limited-term license certificate by clearly indicating
302 on the document:

303 (a) that it is temporary; and

304 (b) its expiration date.

305 (7) (a) The division shall only issue a driving privilege card to ~~[a person]~~ an individual
306 whose privilege was obtained without providing evidence of lawful presence in the United

307 States as required under Subsection 53-3-205(8).

308 (b) The division shall distinguish a driving privilege card from a license certificate by:

309 (i) use of a format, color, font, or other means; and

310 (ii) clearly displaying on the front of the driving privilege card a phrase substantially
311 similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

312 (8) The provisions of Subsection (5)(b) do not apply to a learner permit, temporary
313 permit, temporary regular license certificate, temporary limited-term license certificate, or any
314 other temporary permit.

315 (9) The division shall issue temporary license certificates of the same nature, except as
316 to duration, as the license certificates that they temporarily replace, as are necessary to
317 implement applicable provisions of this section and Section 53-3-223.

318 (10) (a) A governmental entity may not accept a driving privilege card as proof of
319 personal identification.

320 (b) A driving privilege card may not be used as a document providing proof of [~~a~~
321 ~~person's~~] an individual's age for any government required purpose.

322 (11) A person who violates Subsection (2)(b) is guilty of an infraction.

323 (12) Unless otherwise provided, the provisions, requirements, classes, endorsements,
324 fees, restrictions, and sanctions under this code apply to a:

325 (a) driving privilege in the same way as a license or limited-term license issued under
326 this chapter; and

327 (b) limited-term license certificate or driving privilege card in the same way as a
328 regular license certificate issued under this chapter.

329 Section 7. Section 53-3-806 is amended to read:

330 **53-3-806. Portrait-style format -- Minor's card distinguishable.**

331 (1) The division shall use a portrait-style format for all identification cards, similar to
332 the format used for license certificates issued to [~~a person~~] an individual younger than 21 years
333 of age under Section 53-3-207.

334 (2) The identification card issued to [~~a person~~] an individual younger than 21 years of
335 age shall be distinguished by use of plainly printed information or by the use of a color or other
336 means not used for the identification card issued to [~~a person~~] an individual 21 years of age or
337 older.

338 (3) The division shall distinguish an identification card issued to ~~[any person: (a)]~~ an
339 individual younger than 21 years of age by plainly printing the date the identification card
340 holder is 21 years of age~~[, which is the legal age for purchasing an alcoholic beverage or~~
341 ~~alcoholic product under Section 32B-4-403; and]~~.

342 ~~[(b) younger than 19 years of age by plainly printing the date the identification card~~
343 ~~holder is 19 years of age, which is the legal age for purchasing tobacco products under Section~~
344 ~~76-10-104.]~~

345 (4) The division shall distinguish a limited-term identification card by clearly
346 indicating on the card:

347 (a) that it is temporary; and

348 (b) its expiration date.

349 Section 8. Section 59-14-703 is amended to read:

350 **59-14-703. Certification of cigarette rolling machine operators -- Renewal of**
351 **certification -- Requirements for certification or renewal of certification -- Denial.**

352 (1) A cigarette rolling machine operator may not perform the following without first
353 obtaining certification from the commission as provided in this part:

354 (a) locate a cigarette rolling machine within this state;

355 (b) make or offer to make a cigarette rolling machine available for use within this state;

356 or

357 (c) offer a cigarette for sale within this state if the cigarette is produced by:

358 (i) the cigarette rolling machine operator; or

359 (ii) another person at the location of the cigarette rolling machine operator's cigarette
360 rolling machine.

361 (2) A cigarette rolling machine operator shall renew its certification as provided in this
362 section.

363 (3) The commission shall prescribe a form for certifying a cigarette rolling machine
364 operator under this part.

365 (4) (a) A cigarette rolling machine operator shall apply to the commission for
366 certification before the cigarette rolling machine operator performs an act described in
367 Subsection (1) within the state for the first time.

368 (b) A cigarette rolling machine operator shall apply to the commission for a renewal of

369 certification on or before the earlier of:

370 (i) December 31 of each year; or

371 (ii) the day on which there is a change in any of the information the cigarette rolling
372 machine operator provides on the form described in Subsection (3).

373 (5) To obtain certification or renewal of certification under this section from the
374 commission, a cigarette rolling machine operator shall:

375 (a) identify:

376 (i) the cigarette rolling machine operator's name and address;

377 (ii) the location, make, and brand of the cigarette rolling machine operator's cigarette
378 rolling machine; and

379 (iii) each person from whom the cigarette rolling machine operator will purchase or be
380 provided tobacco products that the cigarette rolling machine operator will use to produce
381 cigarettes; and

382 (b) certify, under penalty of perjury, that:

383 (i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling
384 machine, regardless of the tobacco's label or description, shall be only of a:

385 (A) brand family listed on the commission's directory listing required by Section
386 59-14-603; and

387 (B) tobacco product manufacturer listed on the commission's directory listing required
388 by Section 59-14-603;

389 (ii) the cigarette rolling machine operator shall prohibit another person who uses the
390 cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or
391 a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette
392 rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);

393 (iii) the cigarette rolling machine operator holds a current license issued in accordance
394 with this chapter;

395 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title
396 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection
397 Act;

398 (v) the cigarette rolling machine shall be located in a separate and defined area where
399 the cigarette rolling machine operator ensures that ~~[a person]~~ an individual younger than ~~[19~~

400 ~~years of~~ the age specified in Subsection (6) may not be:

401 (A) present at any time; or

402 (B) permitted to enter at any time; and

403 (vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer,
404 or sell cigarettes produced from a cigarette rolling machine in a quantity of less than 20
405 cigarettes per retail transaction.

406 (6) For purposes of Subsection (5), an individual is younger than:

407 (a) beginning July 1, 2020, and ending December 31, 2020, 20 years of age; and

408 (b) beginning January 1, 2020, 21 years of age.

409 ~~[(6)]~~ (7) If the commission determines that a cigarette rolling machine operator meets
410 the requirements for certification or renewal of certification under this section, the commission
411 shall grant the certification or renewal of certification.

412 ~~[(7)]~~ (8) If the commission determines that a cigarette rolling machine operator does
413 not meet the requirements for certification or renewal of certification under this section, the
414 commission shall:

415 (a) deny the certification or renewal of certification; and

416 (b) provide the cigarette rolling machine operator the grounds for denial of the
417 certification or renewal of certification in writing.

418 Section 9. Section **76-10-103** is amended to read:

419 **76-10-103. Permitting minors to use tobacco in place of business.**

420 It is a class C misdemeanor for the proprietor of any place of business to knowingly
421 permit ~~[persons]~~ an individual under ~~[age 19]~~ the following ages to frequent a place of business
422 while ~~[they are]~~ the individual is using tobacco~~[-]~~:

423 (1) beginning July 1, 2020, and ending December 31, 2020, under 20 years of age; and

424 (2) beginning January 1, 2020, under 21 years of age.

425 Section 10. Section **76-10-104** is amended to read:

426 **76-10-104. Providing a cigar, cigarette, electronic cigarette, or tobacco to a minor**
427 **-- Penalties.**

428 (1) ~~[Any]~~ A person violates this section who knowingly, intentionally, recklessly, or
429 with criminal negligence provides ~~[any]~~ a cigar, cigarette, electronic cigarette, or tobacco in
430 any form, to ~~[any person under 19 years of age]~~ an individual under the following ages, is

431 guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second
 432 offense, and a class A misdemeanor on subsequent offenses[-];

433 (a) beginning July 1, 2020, and ending December 31, 2020, 20 years of age; and

434 (b) beginning January 1, 2020, 21 years of age.

435 (2) [~~For purposes of~~] As used in this section "provides":

436 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

437 (b) does not include the acts of the United States Postal Service or other common
 438 carrier when engaged in the business of transporting and delivering packages for others or the
 439 acts of a person, whether compensated or not, who transports or delivers a package for another
 440 person without any reason to know of the package's content.

441 Section 11. Section **76-10-104.1** is amended to read:

442 **76-10-104.1. Providing tobacco paraphernalia to minors -- Penalties.**

443 (1) For purposes of this section:

444 (a) "Provides":

445 (i) includes selling, giving, furnishing, sending, or causing to be sent; and

446 (ii) does not include the acts of the United States Postal Service or other common
 447 carrier when engaged in the business of transporting and delivering packages for others or the
 448 acts of a person, whether compensated or not, who transports or delivers a package for another
 449 person without any reason to know of the package's content.

450 (b) "Tobacco paraphernalia":

451 (i) means [~~any~~] equipment, product, or material of any kind [~~which~~] that is used,
 452 intended for use, or designed for use to package, repackage, store, contain, conceal, ingest,
 453 inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body,
 454 including:

455 (A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
 456 screens, permanent screens, hashish heads, or punctured metal bowls;

457 (B) water pipes;

458 (C) carburetion tubes and devices;

459 (D) smoking and carburetion masks;

460 (E) roach clips[-], meaning objects used to hold burning material, such as a cigarette,
 461 that has become too small or too short to be held in the hand;

- 462 (F) chamber pipes;
 463 (G) carburetor pipes;
 464 (H) electric pipes;
 465 (I) air-driven pipes;
 466 (J) chillums;
 467 (K) bongs; and
 468 (L) ice pipes or chillers; and
 469 (ii) does not include matches or lighters.

470 (2) (a) It is unlawful for a person to knowingly, intentionally, recklessly, or with
 471 criminal negligence provide [~~any~~] tobacco paraphernalia to [~~any person~~] an individual under
 472 [~~19 years of age~~.]:

473 (i) beginning July 1, 2020, and ending December 31, 2020, 20 years of age; and

474 (ii) beginning January 1, 2020, 21 years of age.

475 (b) A person who violates this section is guilty of a class C misdemeanor on the first
 476 offense and a class B misdemeanor on subsequent offenses.

477 Section 12. Section **76-10-105** is amended to read:

478 **76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco**
 479 **by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

480 (1) [~~Any 18 year old person~~] (a) An individual who is 18 years or older, but younger
 481 than the age specified in Subsection (1)(b), and buys or attempts to buy, accepts, or has in the
 482 [~~person's~~] individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any
 483 form is guilty of a class C misdemeanor and subject to:

484 [~~(a)~~] (i) a minimum fine or penalty of \$60; and

485 [~~(b)~~] (ii) participation in a court-approved tobacco education program, which may
 486 include a participation fee.

487 (b) For purposes of Subsection (1)(a), the individual is younger than:

488 (i) beginning July 1, 2020, and ending December 31, 2020, 20 years of age; and

489 (ii) beginning January 1, 2020, 21 years of age.

490 (2) [~~Any person~~] An individual under the age of 18 who buys or attempts to buy,
 491 accepts, or has in the [~~person's~~] individual's possession any cigar, cigarette, electronic cigarette,
 492 or tobacco in any form is subject to the jurisdiction of the juvenile court and subject to Section

493 78A-6-602, unless the violation is committed on school property. If a violation under this
494 section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

- 495 (a) a fine or penalty, in accordance with Section 78A-6-117; and
496 (b) participation in a court-approved tobacco education program, which may include a
497 participation fee.

498 (3) A compliance officer appointed by a board of education under Section 53G-4-402
499 may not issue a citation for a violation of this section committed on school property. A cited
500 violation committed on school property shall be addressed in accordance with Section
501 53G-8-211.

502 Section 13. Section 76-10-105.1 is amended to read:

503 **76-10-105.1. Requirement of direct, face-to-face sale of cigarettes, tobacco, and**
504 **electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.**

505 (1) As used in this section:

506 (a) "Cigarette" means the same as that term is defined in Section 59-14-102.

507 (b) (i) "Face-to-face exchange" means a transaction made in person between an
508 individual and a retailer or retailer's employee.

509 (ii) "Face-to-face exchange" does not include a sale through a:

510 (A) vending machine; or

511 (B) self-service display.

512 (c) "Retailer" means a person who:

513 (i) sells a cigarette, tobacco, or an electronic cigarette to an individual for personal
514 consumption; or

515 (ii) operates a facility with a vending machine that sells a cigarette, tobacco, or an
516 electronic cigarette.

517 (d) "Self-service display" means a display of a cigarette, tobacco, or an electronic
518 cigarette to which the public has access without the intervention of a retailer or retailer's
519 employee.

520 (e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

521 (f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is
522 defined:

523 (i) as it relates to a municipality, in Section 10-8-41.6; and

- 524 (ii) as it relates to a county, in Section 17-50-333.
- 525 (2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, or an
526 electronic cigarette only in a face-to-face exchange.
- 527 (3) The face-to-face sale requirement in Subsection (2) does not apply to:
- 528 (a) a mail-order, telephone, or Internet sale made in compliance with Section
529 59-14-509;
- 530 (b) a sale from a vending machine or self-service display that is located in an area of a
531 retailer's facility:
- 532 (i) that is distinct and separate from the rest of the facility; and
- 533 (ii) where the retailer only allows an individual who complies with Subsection (4) to be
534 present; or
- 535 (c) a sale at a tobacco specialty shop.
- 536 (4) (a) An individual who is less than ~~[19 years old]~~ the age specified in Subsection
537 (4)(b) may not enter or be present at a tobacco specialty shop unless the individual is:
- 538 ~~[(a)]~~ (i) accompanied by a parent or legal guardian;
- 539 ~~[(b)]~~ (ii) present at the tobacco shop for a bona fide commercial purpose other than to
540 purchase a cigarette, tobacco, or an electronic cigarette; or
- 541 ~~[(c)]~~ (iii) 18 years old or older and an active duty member of the United States Armed
542 Forces, as demonstrated by a valid, government-issued military identification card.
- 543 (b) For purposes of Subsection (4)(a), the individual is younger than:
- 544 (i) beginning July 1, 2020, and ending December 31, 2020, 20 years of age; and
- 545 (ii) beginning January 1, 2020, 21 years of age.
- 546 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)(i), an
547 individual into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not
548 allow the individual to purchase a cigarette, tobacco, or an electronic cigarette.
- 549 (6) A violation of Subsection (2) or (4) is a:
- 550 (a) class C misdemeanor on the first offense;
- 551 (b) class B misdemeanor on the second offense; and
- 552 (c) class A misdemeanor on the third and all subsequent offenses.
- 553 (7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor
554 under Section 76-10-104.

555 (8) (a) ~~[Any]~~ An ordinance, regulation, or rule adopted by the governing body of a
556 political subdivision of the state or by a state agency that affects the sale, placement, or display
557 of cigarettes, tobacco, or electronic cigarettes that is not essentially identical to ~~[the provisions~~
558 ~~of]~~ this section and Section 76-10-102 is superseded.

559 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use
560 ordinance by a municipal or county government.

561 Section 14. Section 77-39-101 is amended to read:

562 **77-39-101. Investigation of sales of alcohol, tobacco, and electronic smoking**
563 **devices to underage individuals.**

564 (1) As used in this section~~["electronic cigarette" is as defined in Section 76-10-101]:~~

565 (a) "Electronic smoking device" means a device that can be used to deliver aerosolized
566 or vaporized nicotine to the person inhaling from the device, including an e-cigarette, e-cigar,
567 e-pipe, vape pen, or e-hookah.

568 (b) "Electronic smoking device" includes a component, part, or accessory of a device,
569 whether or not sold separately, and includes any substance intended to be aerosolized or
570 vaporized during the use of the device.

571 (c) "Electronic smoking device" does not include a drug, device, or combination
572 product authorized for sale by the United States Food and Drug Administration, as those terms
573 are defined in the Federal Food, Drug and Cosmetic Act.

574 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer
575 Classifications, may investigate the possible violation of:

576 (i) Section 32B-4-403 by requesting an individual under the age of 21 years to enter
577 into and attempt to purchase or make a purchase of alcohol from a retail establishment; or

578 (ii) Section 76-10-104 by requesting an individual under the age ~~[of 19 years]~~ specified
579 in Subsection (2)(e) to enter into and attempt to purchase or make a purchase from a retail
580 establishment of:

581 (A) a cigar;

582 (B) a cigarette;

583 (C) tobacco in any form; or

584 (D) an electronic ~~[cigarette]~~ smoking device.

585 (b) A peace officer who is present at the site of a proposed purchase shall direct,

586 supervise, and monitor the individual requested to make the purchase.

587 (c) Immediately following a purchase or attempted purchase or as soon as practical the
588 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
589 establishment that the attempted purchaser was under the legal age to purchase:

590 (i) alcohol; or

591 (ii) (A) a cigar;

592 (B) a cigarette;

593 (C) tobacco in any form; or

594 (D) an electronic [~~cigarette~~] smoking device.

595 (d) If a citation or information is issued, it shall be issued within seven days of the
596 purchase.

597 (e) For purposes of Subsection (2)(a)(ii), the individual is younger than:

598 (i) beginning July 1, 2020, and ending December 31, 2020, 20 years of age; and

599 (ii) beginning January 1, 2020, 21 years of age.

600 (3) (a) If an individual under the age of 18 years old is requested to attempt a purchase,
601 a written consent of that individual's parent or guardian shall be obtained prior to that
602 individual participating in any attempted purchase.

603 (b) An individual requested by the peace officer to attempt a purchase may:

604 (i) be a trained volunteer; or

605 (ii) receive payment, but may not be paid based on the number of successful purchases
606 of alcohol, tobacco, or an electronic [~~cigarette~~] smoking device.

607 (4) The individual requested by the peace officer to attempt a purchase and anyone
608 accompanying the individual attempting a purchase may not during the attempted purchase
609 misrepresent the age of the individual by false or misleading identification documentation in
610 attempting the purchase.

611 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
612 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
613 purchase of, or possession of alcohol, a cigar, a cigarette, tobacco in any form, or an electronic
614 [~~cigarette~~] smoking device if a peace officer directs, supervises, and monitors the individual.

615 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
616 shall be conducted:

617 (i) on a random basis; and
618 (ii) within a 12-month period at any one retail establishment location not more often
619 than:

620 (A) two times for the attempted purchase of:

621 (I) a cigar;

622 (II) a cigarette;

623 (III) tobacco in any form; or

624 (IV) an electronic [~~cigarette~~] smoking device; and

625 (B) four times for the attempted purchase of alcohol.

626 (b) [~~Nothing in this section shall~~] This section does not prohibit an investigation or an
627 attempt to purchase tobacco under this section if:

628 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
629 cigar, a cigarette, tobacco in any form, or an electronic [~~cigarette~~] smoking device to an
630 individual under the age established by Section [32B-4-403](#) or [76-10-104](#); and

631 (ii) the supervising peace officer makes a written record of the grounds for the
632 reasonable suspicion.

633 (7) (a) The peace officer exercising direction, supervision, and monitoring of the
634 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
635 was made.

636 (b) The report required by this Subsection (7) shall include:

637 (i) the name of the supervising peace officer;

638 (ii) the name of the individual attempting the purchase;

639 (iii) a photograph of the individual attempting the purchase showing how that
640 individual appeared at the time of the attempted purchase;

641 (iv) the name and description of the cashier or proprietor from whom the individual
642 attempted the purchase;

643 (v) the name and address of the retail establishment; and

644 (vi) the date and time of the attempted purchase.

645 Section 15. **Effective date.**

646 This bill takes effect on July 1, 2020.