

**Representative Jon Hawkins** proposes the following substitute bill:

**TOBACCO AND ELECTRONIC CIGARETTE AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jon Hawkins**

Senate Sponsor: Kirk A. Cullimore

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**LONG TITLE**

**General Description:**

This bill amends provisions related to tobacco products and electronic cigarettes.

**Highlighted Provisions:**

This bill:

- ▶ defines terms related to electronic cigarettes and tobacco retailers;
- ▶ modifies the definition of a retail tobacco specialty business;
- ▶ amends permit violations for tobacco retailers;
- ▶ creates requirements regarding verification of age for retail tobacco specialty

businesses;

- ▶ makes it a crime to fraudulently use or transfer proof of age to gain access to a retail tobacco specialty business or to purchase a tobacco product or electronic cigarette product;

- ▶ creates civil penalties for a retail tobacco specialty business that allows an individual under 21 years old in certain circumstances to gain access to the premises of the business or to purchase a cigar, cigarette, electronic cigarette product, or tobacco in any form;

- ▶ increases the minimum age for obtaining, possessing, using, providing, or furnishing tobacco products and paraphernalia and electronic cigarette products to



- 26 21 years old;
- 27       ▶ makes it a crime for an employee of a retail tobacco specialty business to allow an
- 28 individual under 21 years old to purchase a cigar, cigarette, electronic cigarette
- 29 product, or tobacco in any form;
- 30       ▶ amends the number of times that a peace officer must conduct an investigation of a
- 31 retail shop for underage tobacco sales; and
- 32       ▶ makes technical and conforming changes.

33 **Money Appropriated in this Bill:**

34       None

35 **Other Special Clauses:**

36       This bill provides a special effective date.

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39       **10-8-41.6**, as last amended by Laws of Utah 2018, Chapter 231
- 40       **10-8-47 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 41       **17-50-333**, as last amended by Laws of Utah 2018, Chapter 231
- 42       **26-62-102**, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 43       **26-62-205 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 44       **26-62-304 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 45       **26-62-305 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 46       **51-9-203 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapters 136
- 47 and 232
- 48       **53-3-229**, as last amended by Laws of Utah 2010, Chapters 114 and 276
- 49       **53-3-810**, as last amended by Laws of Utah 2010, Chapters 114 and 276
- 50       **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293
- 51       **59-14-703 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 52       **76-8-311.3**, as last amended by Laws of Utah 2010, Chapter 114
- 53       **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended
- 54 by Coordination Clause, Laws of Utah 2015, Chapter 132
- 55       **76-10-103 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 56       **76-10-104 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

57 **76-10-104.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

58 **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

59 **76-10-105.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

60 **77-39-101 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

61 ENACTS:

62 **26-62-401**, Utah Code Annotated 1953

63 **26-62-402**, Utah Code Annotated 1953

64 **76-10-113**, Utah Code Annotated 1953

65 **76-10-114**, Utah Code Annotated 1953

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

68 Section 1. Section **10-8-41.6** is amended to read:

69 **10-8-41.6. Regulation of retail tobacco specialty business.**

70 (1) As used in this section:

71 (a) "Community location" means:

72 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

73 (ii) a licensed child-care facility or preschool;

74 (iii) a trade or technical school;

75 (iv) a church;

76 (v) a public library;

77 (vi) a public playground;

78 (vii) a public park;

79 (viii) a youth center or other space used primarily for youth oriented activities;

80 (ix) a public recreational facility;

81 (x) a public arcade; or

82 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

83 (b) "Department" means the Department of Health, created in Section **26-1-4**.

84 (c) "Local health department" means the same as that term is defined in Section

85 **26A-1-102**.

86 (d) "Permittee" means a person licensed under this section to conduct business as a

87 retail tobacco specialty business.

88 (e) "Retail tobacco specialty business" means a commercial establishment in which:  
89 (i) the sale of tobacco products accounts for more than 35% of the total quarterly gross  
90 receipts for the establishment;

91 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or  
92 storage of tobacco products;

93 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of  
94 tobacco products; ~~[or]~~

95 (iv) the commercial establishment holds itself out as a retail tobacco specialty business  
96 and causes a reasonable person to believe the commercial establishment is a retail tobacco  
97 specialty business; or

98 ~~[(iv)]~~ (v) the retail space features a self-service display for tobacco products.

99 (f) "Self-service display" means the same as that term is defined in Section  
100 76-10-105.1.

101 (g) "Tobacco product" means:

102 (i) any cigar, cigarette, or electronic cigarette product, as those terms are defined in  
103 Section 76-10-101;

104 (ii) a tobacco product, as that term is defined in Section 59-14-102, including:

105 (A) chewing tobacco; or

106 (B) any substitute for a tobacco product, including flavoring or additives to tobacco;  
107 and

108 (iii) tobacco paraphernalia, as that term is defined in Section 76-10-104.1.

109 (2) The regulation of a retail tobacco specialty business is an exercise of the police  
110 powers of the state~~[, and through delegation,]~~ by the state or by delegation of the state's police  
111 powers to other governmental entities.

112 (3) (a) A person may not operate a retail tobacco specialty business in a municipality  
113 unless the person obtains a license from the municipality in which the retail tobacco specialty  
114 business is located.

115 (b) A municipality may only issue a retail tobacco specialty business license to a  
116 person if the person complies with the provisions of Subsections (4) and (5).

117 (4) (a) Except as provided in Subsection (7), a municipality may not issue a license for  
118 a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty

119 business is located within:

- 120 (i) 1,000 feet of a community location;
- 121 (ii) 600 feet of another retail tobacco specialty business; or
- 122 (iii) 600 feet from property used or zoned for:
  - 123 (A) agriculture use; or
  - 124 (B) residential use.

125 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in  
126 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest  
127 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard  
128 to intervening structures or zoning districts.

129 (5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a municipality  
130 may not issue or renew a license for a person to conduct business as a retail tobacco specialty  
131 business until the person provides the municipality with proof that the retail tobacco specialty  
132 business has:

- 133 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter  
134 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in  
135 which the retail tobacco specialty business is located; and
- 136 (ii) a valid license to sell tobacco products from the State Tax Commission.

137 (b) A person that was licensed to conduct business as a retail tobacco specialty  
138 business in a municipality before July 1, 2018, shall obtain a permit from a local health  
139 department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.

140 (6) (a) Nothing in this section:

- 141 (i) requires a municipality to issue a retail tobacco specialty business license; or
- 142 (ii) prohibits a municipality from adopting more restrictive requirements on a person  
143 seeking a license or renewal of a license to conduct business as a retail tobacco specialty  
144 business.

145 (b) A municipality may suspend or revoke a retail tobacco specialty business license  
146 issued under this section:

147 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,  
148 Part 16, Pattern of Unlawful Activity Act;

149 (ii) if a licensee violates ~~[the regulations]~~ federal law ~~↗~~ **[and]** or ~~↖~~ regulations  
149a restricting the

150 sale and distribution of [~~cigarettes and smokeless tobacco~~] tobacco products to protect children  
 151 and adolescents ~~H→ [issued by the United States Food and Drug Administration, 21 C.F.R. Part~~  
 152 ~~1140] ←H~~ ;

153 (iii) upon the recommendation of the department or a local health department under  
 154 Title 26, Chapter 62, Tobacco Retail Permit; or

155 (iv) under any other provision of state law or local ordinance.

156 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has  
 157 a business license and is operating in a municipality in accordance with all applicable laws  
 158 except for the requirement in Subsection (4), on or before December 31, 2015, is exempt from  
 159 Subsection (4).

160 (b) A retail tobacco specialty business may maintain an exemption under Subsection  
 161 (7)(a) if:

162 (i) the retail tobacco specialty business license is renewed continuously without lapse  
 163 or permanent revocation;

164 (ii) the retail tobacco specialty business does not close for business or otherwise  
 165 suspend the sale of tobacco products for more than 60 consecutive days;

166 (iii) the retail tobacco specialty business does not substantially change the business  
 167 premises or business operation; and

168 (iv) the retail tobacco specialty business maintains the right to operate under the terms  
 169 of other applicable laws, including:

170 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

171 (B) zoning ordinances;

172 (C) building codes; and

173 (D) the requirements of a retail tobacco specialty business license issued before  
 174 December 31, 2015.

175 Section 2. Section **10-8-47 (Effective 07/01/20)** is amended to read:

176 **10-8-47 (Effective 07/01/20). Intoxication -- Fights -- Disorderly conduct --**

177 **Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and**

178 **fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to**

179 **minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or**

180 **drug addicts.**

181 (1) A municipal legislative body may:

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

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

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

189 (d) provide against and prevent the offense of obtaining money or property under false  
190 pretenses and the offense of embezzling money or property in the cases when the money or  
191 property embezzled or obtained under false pretenses does not exceed in value the sum of  
192 \$500;

193 (e) prohibit the sale, giving away, or furnishing of narcotics or alcoholic beverages to  
194 an individual younger than 21 years old; or

195 (f) prohibit the sale, giving away, or furnishing of [~~tobacco or e-cigarettes~~] a tobacco  
196 product, as defined in Section 10-8-41.6, to an individual younger than[: (i) ~~beginning July 1,~~  
197 ~~2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1, 2021,~~] 21 years old.

198 (2) A city may:

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

202 (b) provide for treatment of alcoholics, narcotic addicts, and other individuals who are  
203 addicted to the use of drugs or intoxicants such that an individual substantially lacks the  
204 capacity to control the individual's use of the drugs or intoxicants, and judicial supervision may  
205 be imposed as a means of effecting the individual's rehabilitation.

206 Section 3. Section 17-50-333 is amended to read:

207 **17-50-333. Regulation of retail tobacco specialty business.**

208 (1) As used in this section:

209 (a) "Community location" means:

210 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

211 (ii) a licensed child-care facility or preschool;

- 212 (iii) a trade or technical school;
- 213 (iv) a church;
- 214 (v) a public library;
- 215 (vi) a public playground;
- 216 (vii) a public park;
- 217 (viii) a youth center or other space used primarily for youth oriented activities;
- 218 (ix) a public recreational facility;
- 219 (x) a public arcade; or
- 220 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 221 (b) "Department" means the Department of Health, created in Section 26-1-4.
- 222 (c) "Licensee" means a person licensed under this section to conduct business as a
- 223 retail tobacco specialty business.
- 224 (d) "Local health department" means the same as that term is defined in Section
- 225 26A-1-102.
- 226 (e) "Retail tobacco specialty business" means a commercial establishment in which:
- 227 (i) the sale of tobacco products accounts for more than 35% of the total quarterly gross
- 228 receipts for the establishment;
- 229 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 230 storage of tobacco products;
- 231 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
- 232 tobacco products; [or]
- 233 (iv) the commercial establishment holds itself out as a retail tobacco specialty business
- 234 and causes a reasonable person to believe the commercial establishment is a retail tobacco
- 235 specialty business; or
- 236 [~~(iv)~~] (v) the retail space features a self-service display for tobacco products.
- 237 (f) "Self-service display" means the same as that term is defined in Section
- 238 76-10-105.1.
- 239 (g) "Tobacco product" means:
- 240 (i) any cigar, cigarette, or electronic cigarette product as those terms are defined in
- 241 Section 76-10-101;
- 242 (ii) a tobacco product as that term is defined in Section 59-14-102, including:



243 (A) chewing tobacco; or  
244 (B) any substitute for a tobacco product, including flavoring or additives to tobacco;  
245 and

246 (iii) tobacco paraphernalia as that term is defined in Section [76-10-104.1](#).

247 (2) The regulation of a retail tobacco specialty business is an exercise of the police  
248 powers of the state~~[, and through delegation,]~~ by the state or by the delegation of the states's  
249 police power to other governmental entities.

250 (3) (a) A person may not operate a retail tobacco specialty business in a county unless  
251 the person obtains a license from the county in which the retail tobacco specialty business is  
252 located.

253 (b) A county may only issue a retail tobacco specialty business license to a person if  
254 the person complies with the provisions of Subsections (4) and (5).

255 (4) (a) Except as provided in Subsection (7), a county may not issue a license for a  
256 person to conduct business as a retail tobacco specialty business if the retail tobacco specialty  
257 business is located within:

- 258 (i) 1,000 feet of a community location;
- 259 (ii) 600 feet of another retail tobacco specialty business; or
- 260 (iii) 600 feet from property used or zoned for:
  - 261 (A) agriculture use; or
  - 262 (B) residential use.

263 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in  
264 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest  
265 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard  
266 to intervening structures or zoning districts.

267 (5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a county may  
268 not issue or renew a license for a person to conduct business as a retail tobacco specialty  
269 business until the person provides the county with proof that the retail tobacco specialty  
270 business has:

- 271 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter  
272 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in  
273 which the retail tobacco specialty business is located; and

274 (ii) a valid license to sell tobacco products from the State Tax Commission.

275 (b) A person that was licensed to conduct business as a retail tobacco specialty  
276 business in a county before July 1, 2018, shall obtain a permit from a local health department  
277 under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.

278 (6) (a) Nothing in this section:

279 (i) requires a county to issue a retail tobacco specialty business license; or

280 (ii) prohibits a county from adopting more restrictive requirements on a person seeking  
281 a license or renewal of a license to conduct business as a retail tobacco specialty business.

282 (b) A county may suspend or revoke a retail tobacco specialty business license issued  
283 under this section:

284 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,  
285 Part 16, Pattern of Unlawful Activity Act;

286 (ii) if a licensee violates ~~[the regulations]~~ federal law ~~↔~~ **[and]** or ~~↔~~ regulations  
286a restricting the  
287 sale and distribution of ~~[cigarettes and smokeless tobacco]~~ tobacco products to protect children  
288 and adolescents ~~↔~~ **[issued by the United States Food and Drug Administration, 21 C.F.R. Part**  
289 **1140]** ~~↔~~ ;

290 (iii) upon the recommendation of the department or a local health department under  
291 Title 26, Chapter 62, Tobacco Retail Permit; or

292 (iv) under any other provision of state law or local ordinance.

293 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has  
294 a business license and is operating in a county in accordance with all applicable laws except for  
295 the requirement in Subsection (4), on or before December 31, 2015, is exempt from Subsection  
296 (4).

297 (b) A retail tobacco specialty business may maintain an exemption under Subsection  
298 (7)(a) if:

299 (i) the retail tobacco specialty business license is renewed continuously without lapse  
300 or permanent revocation;

301 (ii) the retail tobacco specialty business does not close for business or otherwise  
302 suspend the sale of tobacco products for more than 60 consecutive days;

303 (iii) the retail tobacco specialty business does not substantially change the business  
304 premises or business operation; and

305 (iv) the retail tobacco specialty business maintains the right to operate under the terms  
306 of other applicable laws, including:

- 307 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 308 (B) zoning ordinances;
- 309 (C) building codes; and
- 310 (D) the requirements of a retail tobacco specialty business license issued before  
311 December 31, 2015.

312 Section 4. Section **26-62-102** is amended to read:

313 **26-62-102. Definitions.**

314 As used in this chapter:

- 315 (1) "Community location" means the same as that term is defined:
  - 316 (a) as it relates to a municipality, in Section 10-8-41.6; and
  - 317 (b) as it relates to a county, in Section 17-50-333.
- 318 (2) "Employee" means an employee of a tobacco retailer.
- 319 (3) "Enforcing agency" means the state Department of Health, or any local health  
320 department enforcing the provisions of this chapter.
- 321 (4) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco  
322 specialty business.
- 323 (5) "Local health department" means the same as that term is defined in Section  
324 26A-1-102.
- 325 (6) "Owner" means a person holding a 20% ownership interest in the business that is  
326 required to obtain an permit under this chapter.
- 327 [~~6~~] (7) "Permit" means a tobacco retail permit issued under this chapter.
- 328 (8) (a) "Proof of age" means:
  - 329 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification  
330 Card Act;
  - 331 (ii) a valid identification that:
    - 332 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,  
333 Part 8, Identification Card Act;
    - 334 (B) is issued in accordance with the laws of a state other than Utah in which the  
335 identification is issued;

336 (C) includes date of birth; and  
 337 (D) has a picture affixed;  
 338 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform  
 339 Driver License Act, or in accordance with the laws of the state in which the valid driver license  
 340 is issued;

341 (iv) a valid United States military identification card that:  
 342 (A) includes date of birth; and  
 343 (B) has a picture affixed; or  
 344 (v) a valid passport.  
 345 (b) "Proof of age" does not include a valid driving privilege card issued in accordance  
 346 with Section 53-3-207.

347 [~~7~~] (9) "Retail tobacco specialty business" means the same as that term is defined:  
 348 (a) as it relates to a municipality, in Section 10-8-41.6; and  
 349 (b) as it relates to a county, in Section 17-50-333.

350 [~~8~~] (10) "Tax commission license" means a license issued by the State Tax  
 351 Commission under:

- 352 (a) Section 59-14-201 to sell cigarettes at retail;
- 353 (b) Section 59-14-301 to sell tobacco products at retail; or
- 354 (c) Section 59-14-803 to sell an electronic cigarette product.

355 [~~9~~] (11) "Tobacco product" means:

- 356 (a) a cigar, cigarette, or electronic cigarette product as those terms are defined in  
 357 Section 76-10-101;
- 358 (b) a tobacco product as that term is defined in Section 59-14-102, including:  
 359 (i) chewing tobacco; or  
 360 (ii) any substitute for a tobacco product, including flavoring or additives to tobacco; or  
 361 (c) tobacco paraphernalia as that term is defined in Section 76-10-104.1.

362 [~~10~~] (12) "Tobacco retailer" means a person that is required to obtain a tax  
 363 commission license.

364 Section 5. Section 26-62-205 (Effective 07/01/20) is amended to read:

365 **26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty**  
 366 **business.**

367 A retail tobacco specialty business shall:

368 (1) electronically verify proof of age for any individual that enters the premises of the  
 369 business in accordance with Part 4, Proof of Age Requirements;

370 [~~(1)~~] (2) except as provided in Subsection [76-10-105.1\(4\)](#), prohibit any individual from  
 371 entering the business if the individual is[:~~(a) beginning July 1, 2020, and ending June 30,~~  
 372 ~~2021, under 20 years old; and (b) beginning July 1, 2021,~~] under 21 years old; and

373 [~~(2)~~] (3) prominently display at the retail tobacco specialty business a sign on the  
 374 public entrance of the business that communicates:

375 (a) the prohibition on the presence of an individual under 21 years old in a retail  
 376 tobacco specialty business in Subsection [76-10-105.1\(4\)](#); and

377 (b) the prohibition on the sale of tobacco products to an individual under 21 years old  
 378 as described in Sections [76-10-104](#), [76-10-104.1](#), [76-10-105.1](#), and [76-10-113](#).

379 Section 6. Section **26-62-304 (Effective 07/01/20)** is amended to read:

380 **26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

381 (1) At a civil hearing conducted under Section [26-62-302](#), evidence of the final  
 382 criminal conviction of a tobacco retailer or employee for violation of Section [~~76-10-104~~]  
 383 [76-10-114](#) at the same location and within the same time period as the location and time period  
 384 alleged in the civil hearing for violation of this chapter for sale of tobacco products to an  
 385 individual under [~~the following ages~~] 21 years old is prima facie evidence of a violation of this  
 386 chapter[:].

387 [~~(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and~~]  
 388 [~~(b) beginning July 1, 2021, under 21 years old.~~]

389 (2) If the tobacco retailer is convicted of violating Section [~~76-10-104~~] [76-10-114](#), the  
 390 enforcing agency:

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

393 (b) may revoke or suspend a permit in accordance with Section [26-62-305](#) or  
 394 [26-62-402](#).

395 Section 7. Section **26-62-305 (Effective 07/01/20)** is amended to read:

396 **26-62-305 (Effective 07/01/20). Penalties.**

397 (1) (a) If[, ~~following an inspection by an enforcing agency, or an investigation or~~

398 issuance of a citation or information under Section ~~77-39-101~~], an enforcing agency determines  
 399 that a person has violated the terms of a permit issued under this chapter, the enforcing agency  
 400 may impose the penalties described in this section.

401 (b) If multiple violations are found in a single inspection by an enforcing agency or  
 402 investigation~~[, only one violation shall count toward the penalties described in this section. (2)~~  
 403 ~~(a) The administrative penalty for]~~ by a law enforcement agency under Section 77-39-101, the  
 404 enforcing agency shall treat the multiple violations as one single violation under Subsections  
 405 (2), (3), and (4).

406 (2) Except as provided in Subsection (3) and Section ~~26-62-402~~, if a violation is found  
 407 in an inspection by an enforcing agency or an investigation by a law enforcement agency under  
 408 Section 77-39-101, the enforcing agency shall:

409 (a) on a first violation at a retail location [is], impose a penalty of [not] no more than  
 410 \$500[-];

411 (b) ~~[The administrative penalty for]~~ on a second violation at the same retail location  
 412 that occurs within one year of a previous violation [is], impose a penalty of [not] no more than  
 413 \$750[-];

414 (c) ~~[The administrative penalty for]~~ on a third [or subsequent] violation at the same  
 415 retail location that occurs within two years after two [or more] previous violations [is] impose:

416 (i) a suspension of the ~~[retail tobacco business]~~ permit for 30 consecutive business days  
 417 within 60 days after the day on which the third ~~[or subsequent]~~ violation occurs; or

418 (ii) a penalty of ~~[not] no more than \$1,000[-]; and~~

419 ~~[(3) The department or a local health department may:]~~

420 ~~[(a) revoke a permit if a fourth violation occurs within two years of three previous~~  
 421 ~~violations;]~~

422 ~~[(b) in addition to a monetary penalty imposed under Subsection (2), suspend the~~  
 423 ~~permit if the violation is due to a sale of tobacco products to an individual under:]~~

424 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

425 ~~[(ii) beginning July 1, 2021, 21 years old; and]~~

426 ~~[(c) if applicable, recommend to a municipality or county that a retail tobacco specialty~~  
 427 ~~business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.]~~

428 (d) on a fourth or subsequent violation within two years of three previous violations:

429 (i) impose a penalty of no more than \$1,000;  
430 (ii) revoke a permit of the retailer; and  
431 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty  
432 business license issued under Section [10-8-41.6](#) or [17-50-333](#) be suspended or revoked.

433 (3) If a violation is found in an investigation of a general tobacco retailer by a law  
434 enforcement agency under Section [77-39-101](#) for the sale of a tobacco product to an individual  
435 under 21 years old and the violation is committed by the owner of the general tobacco retailer,  
436 the enforcing agency shall:

437 (a) on a first violation, impose a fine of no more than \$2,000 on the general tobacco  
438 retailer; and

439 (b) on the second violation for the same general tobacco retailer within one year of the  
440 first violation:

441 (i) impose a fine not exceeding \$5,000; and

442 (ii) revoke the permit for the general tobacco retailer.

443 (4) If a violation is found in an investigation of a retail tobacco specialty business by a  
444 law enforcement agency under Section [77-39-101](#) for the sale of a tobacco product to an  
445 individual under 21 years old, the enforcing agency shall apply the provisions of Section  
446 [26-62-402](#).

447 ~~[(4)]~~ (5) (a) Except when a transfer described in Subsection ~~[(5)]~~ (6) occurs, a local  
448 health department may not issue a permit to:

449 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2)  
450 or (3) or Section [26-62-402](#); or

451 (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner,  
452 or other holder of significant interest as another tobacco retailer for whom a permit is  
453 suspended or revoked under Subsection (2) or (3) or Section [26-62-402](#).

454 (b) A person whose permit:

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

458 (ii) is revoked under this section or Section [26-62-402](#) may not apply for a new permit  
459 for any tobacco retailer for a period of 24 months after the day on which an enforcing agency

460 revokes the permit.

461 ~~[(5)]~~ (6) Violations of this chapter, Section 10-8-41.6, ~~[or]~~ Section 17-50-333, or  
462 Section 26-62-402 that occur at a tobacco retailer location shall stay on the record for that  
463 tobacco retailer location unless:

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

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

468 Section 8. Section **26-62-401** is enacted to read:

469 **Part 4. Proof of Age Requirements**

470 **26-62-401. Verification of proof of age.**

471 (1) As used in this section:

472 (a) "Employee" means an employee of a retail tobacco specialty business.

473 (b) "Electronic verification program" means a technology used by a retail tobacco  
474 specialty business to confirm proof of age for an individual.

475 (2) A retail tobacco specialty business shall require that an employee verify proof of  
476 age as provided in this section.

477 (3) To comply with Subsection (2), an employee shall:

478 (a) request the individual present proof of age; and

479 (b) verify the validity of the proof of age electronically in accordance with Subsection

480 (4).

481 (4) A retail tobacco specialty business shall use an electronic verification program to  
482 assist the business in complying with the requirements of this section.

483 (5) (a) A retail tobacco specialty business may not disclose information obtained under  
484 this section except as provided under this part.

485 (b) Information obtained under this section:

486 (i) shall be kept for at least 30 days; and

487 (ii) is subject to inspection upon request by a peace officer or the representative of an  
488 enforcing agency.

489 (6) (a) If an employee does not verify proof of age under this section, the employee  
490 may not permit an individual to:



491 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or  
492 (ii) purchase a tobacco product.

493 (b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years  
494 old may be permitted to enter a retail tobacco specialty business if:

495 (i) the individual is accompanied by a parent or legal guardian who provides proof of  
496 age; or

497 (ii) the individual is present at the retail tobacco specialty shop for a bona fide  
498 commercial purpose other than to purchase a tobacco product.

499 (7) To determine whether the individual described in Subsection (2) is 21 years old or  
500 older, the following may request an individual described in Subsection (2) to present proof of  
501 age:

502 (a) an employee;

503 (b) a peace officer; or

504 (c) a representative of an enforcing agency.

505 Section 9. Section **26-62-402** is enacted to read:

506 **26-62-402. Penalties.**

507 (1) Except as provided in Subsection (2), if a violation of this part is found in an  
508 investigation of a retail tobacco specialty business by a law enforcement agency under Section  
509 77-39-101, the enforcing agency shall:

510 (a) on a first violation, impose a penalty of no more than \$500 on the retail tobacco  
511 specialty business;

512 (b) on a second violation for the same retail tobacco specialty business that occurs  
513 within one year of a previous violation, impose a penalty of no more than \$750;

514 (c) on a third violation for the same retail tobacco specialty business that occurs within  
515 two years of the two previous violations, impose:

516 (i) a suspension of the permit for 30 consecutive business days within 60 days after the  
517 day on which the third violation occurs; or

518 (ii) a penalty of no more than \$1,000; and

519 (d) on a fourth or subsequent violation within two years of the three previous  
520 violations:

521 (i) impose a penalty of no more than \$1,000;

522           (ii) revoke the permit of the retail tobacco specialty business; and  
523           (iii) recommend to a municipality or county that a retail tobacco specialty business  
524 license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.  
525           (2) If a violation of this part is committed by the owner and is found in an investigation  
526 of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101,  
527 the enforcing agency shall:  
528           (a) on a first violation, impose a fine not exceeding \$2,000; and  
529           (b) on a second violation at the same retail tobacco specialty business within one year  
530 of the first violation:  
531           (i) impose a fine not exceeding \$5,000;  
532           (ii) revoke the retail tobacco specialty business's permit; and  
533           (iii) recommend to a municipality or county that the retail tobacco specialty license  
534 issued under Section 10-8-61.6 or 17-50-333 to the retail tobacco specialty business be  
535 suspended or revoked.  
536           (3) If multiple violations are found in a single investigation by a law enforcement  
537 agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as a  
538 single violation.  
539           Section 10. Section **51-9-203 (Effective 07/01/20)** is amended to read:  
540           **51-9-203 (Effective 07/01/20). Requirements for tobacco programs.**  
541           (1) To be eligible to receive funding under this part for a tobacco prevention, reduction,  
542 cessation, or control program, an organization, whether private, governmental, or  
543 quasi-governmental, shall:  
544           (a) submit a request to the Department of Health containing the following information:  
545           (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate  
546 sound management and periodic evaluation of the campaign's relevance to the intended  
547 audience, particularly in campaigns directed toward youth, including audience awareness of the  
548 campaign and recollection of the main message;  
549           (ii) for school-based education programs to prevent and reduce youth smoking, the  
550 request shall describe how the program will be effective in preventing and reducing youth  
551 smoking;  
552           (iii) for community-based programs to prevent and reduce smoking, the request shall

553 demonstrate that the proposed program:

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

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

556 (C) if directed toward youth:

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

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

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

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

562 (iv) for enforcement, control, and compliance program, the request shall demonstrate

563 that the proposed program can reasonably be expected to reduce the extent to which [~~tobacco~~

564 ~~products~~] cigars, cigarettes, and electronic cigarette products, or tobacco in any form as those

565 terms are defined in Section 76-10-101, are available to individuals under [~~the following ages:~~

566 ~~(A) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (B) beginning July 1,~~

567 ~~2021,] 21 years old;~~

568 (b) agree, by contract, to file an annual written report with the Department of Health

569 that contains the following:

570 (i) the amount funded;

571 (ii) the amount expended;

572 (iii) a description of the program or campaign and the number of adults and youth who

573 participated;

574 (iv) specific elements of the program or campaign meeting the applicable criteria set

575 forth in Subsection (1)(a); and

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

577 (c) agree, by contract, to not use any funds received under this part directly or

578 indirectly, to:

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

580 to, candidates, ballot questions, referenda, or similar activities; or

581 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to

582 enforce:

583 (A) the provisions of the Master Settlement Agreement;

- 584 (B) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 585 (C) Title 26, Chapter 62, Part 3, Enforcement; and
- 586 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and
- 587 (d) agree, by contract, to repay the funds provided under this part if the organization:
- 588 (i) fails to file a timely report as required by Subsection (1)(b); or
- 589 (ii) uses any portion of the funds in violation of Subsection (1)(c).
- 590 (2) The Department of Health shall review and evaluate the success and effectiveness
- 591 of any program or campaign that receives funding pursuant to a request submitted under
- 592 Subsection (1). The review and evaluation:
- 593 (a) shall include a comparison of annual smoking trends;
- 594 (b) may be conducted by an independent evaluator; and
- 595 (c) may be paid for by funds appropriated from the account for that purpose.
- 596 (3) The Department of Health shall annually report to the Social Services
- 597 Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).
- 598 (4) An organization that fails to comply with the contract requirements set forth in
- 599 Subsection (1) shall:
- 600 (a) repay the state as provided in Subsection (1)(d); and
- 601 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.
- 602 (5) The attorney general shall be responsible for recovering funds that are required to
- 603 be repaid to the state under this section.
- 604 (6) Nothing in this section may be construed as applying to funds that are not
- 605 appropriated under this part.

606 Section 11. Section **53-3-229** is amended to read:

607 **53-3-229. Prohibited uses of license certificate -- Penalty.**

608 (1) It is a class C misdemeanor for [~~a person~~] an individual to:

- 609 (a) lend or knowingly permit the use of a license certificate issued to the [~~person~~]
- 610 individual, by [~~a person~~] another individual not entitled to [~~it~~] the license certificate;
- 611 (b) display or [~~to~~] represent as the [~~person's~~] individual's own license certificate a
- 612 license certificate not issued to the [~~person~~] individual;
- 613 (c) refuse to surrender to the division or a peace officer upon demand any license
- 614 certificate issued by the division;

615 (d) use a false name or give a false address in any application for a license or any  
616 renewal or duplicate of the license certificate, or to knowingly make a false statement, or to  
617 knowingly conceal a material fact or otherwise commit a fraud in the application;

618 (e) display a canceled, denied, revoked, suspended, or disqualified driver license  
619 certificate as a valid driver license certificate;

620 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic  
621 driver license certificate issued by a governmental entity if the item is not an authentic driver  
622 license certificate issued by that governmental entity; or

623 (g) alter any information on an authentic driver license certificate so that it no longer  
624 represents the information originally displayed.

625 (2) The provisions of Subsection (1)(e) do not prohibit the use of ~~[a person's]~~ an  
626 individual's driver license certificate as a means of personal identification.

627 (3) It is a class A misdemeanor to knowingly:

628 (a) issue a driver license certificate with false or fraudulent information;

629 (b) issue a driver license certificate to ~~[a person]~~ an individual who is younger than 21  
630 years ~~[of age]~~ old if the driver license certificate is not distinguished as required for ~~[a person]~~  
631 an individual who is younger than 21 years ~~[of age]~~ old under Section [53-3-207](#); or

632 (c) acquire, use, display, or transfer a false or altered driver license certificate to  
633 procure~~[-]~~ a cigar, a cigarette, an electronic cigarette product, or tobacco in any form, as those  
634 terms are defined in Section [76-10-101](#).

635 ~~[(i) a cigarette;]~~

636 ~~[(ii) an electronic cigarette, as defined in Section [76-10-101](#);~~

637 ~~[(iii) tobacco; or]~~

638 ~~[(iv) a tobacco product.]~~

639 (4) ~~[A person]~~ An individual may not use, display, or transfer a false or altered driver  
640 license certificate to procure alcoholic beverages, gain admittance to a place where alcoholic  
641 beverages are sold or consumed, or obtain employment that may not be obtained by a minor in  
642 violation of Section [32B-1-403](#).

643 (5) It is a third degree felony if ~~[a person's]~~ an individual's acquisition, use, display, or  
644 transfer of a false or altered driver license certificate:

645 (a) aids or furthers the ~~[person's]~~ individual's efforts to fraudulently obtain goods or

646 services; or

647 (b) aids or furthers the ~~[person's]~~ individual's efforts to commit a violent felony.

648 Section 12. Section **53-3-810** is amended to read:

649 **53-3-810. Prohibited uses of identification card -- Penalties.**

650 (1) It is a class C misdemeanor to:

651 (a) lend or knowingly permit the use of an identification card issued to the ~~[person]~~  
652 individual, by ~~[a person]~~ an individual not entitled to ~~[it]~~ the identification card;

653 (b) display or to represent as the ~~[person's]~~ individual's own identification card an  
654 identification card not issued to the ~~[person]~~ individual;

655 (c) refuse to surrender to the division or a peace officer upon demand any identification  
656 card issued by the division;

657 (d) use a false name or give a false address in any application for an identification card  
658 or any renewal or duplicate of the identification card, or to knowingly make a false statement,  
659 or to knowingly conceal a material fact in the application;

660 (e) display a revoked identification card as a valid identification card;

661 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic  
662 identification card issued by a governmental entity if the item is not an authentic identification  
663 card issued by that governmental entity; or

664 (g) alter any information contained on an authentic identification card so that it no  
665 longer represents the information originally displayed.

666 (2) It is a class A misdemeanor to knowingly:

667 (a) issue an identification card with false or fraudulent information;

668 (b) issue an identification card to ~~[any person]~~ and individual who is younger than 21  
669 years ~~[of age]~~ old if the identification card is not distinguished as required for ~~[a person]~~ an  
670 individual who is younger than 21 years ~~[of age]~~ old under Section **53-3-806**; or

671 (c) acquire, use, display, or transfer a false or altered identification card to procure~~[:]~~ a  
672 cigar, a cigarette, an electronic cigarette product, or tobacco in any form, as those terms are  
673 defined in Section 76-10-101.

674 ~~[(i) a cigarette;]~~

675 ~~[(ii) an electronic cigarette, as defined in Section 76-10-101;]~~

676 ~~[(iii) tobacco; or]~~

677 [~~(iv) a tobacco product.~~]

678 (3) [~~A person~~] An individual may not knowingly use, display, or transfer a false or  
679 altered identification card to procure alcoholic beverages, gain admittance to a place where  
680 alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a  
681 minor in violation of Section [32B-1-403](#).

682 (4) It is a third degree felony if [~~a person's~~] an individual's acquisition, use, display, or  
683 transfer of a false or altered identification card:

684 (a) aids or furthers the [~~person's~~] individual's efforts to fraudulently obtain goods or  
685 services; or

686 (b) aids or furthers the [~~person's~~] individual's efforts to commit a violent felony.

687 Section 13. Section **53G-8-209** is amended to read:

688 **53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of**  
689 **violations -- Limitation of liability.**

690 (1) The Legislature recognizes that:

691 (a) participation in student government and extracurricular activities may confer  
692 important educational and lifetime benefits upon students, and encourages school districts and  
693 charter schools to provide a variety of opportunities for all students to participate in such  
694 activities in meaningful ways;

695 (b) there is no constitutional right to participate in these types of activities, and does  
696 not through this section or any other provision of law create such a right;

697 (c) students who participate in student government and extracurricular activities,  
698 particularly competitive athletics, and the adult coaches, advisors, and assistants who direct  
699 those activities, become role models for others in the school and community;

700 (d) these individuals often play major roles in establishing standards of acceptable  
701 behavior in the school and community, and establishing and maintaining the reputation of the  
702 school and the level of community confidence and support afforded the school; and

703 (e) it is of the utmost importance that those involved in student government, whether as  
704 officers or advisors, and those involved in competitive athletics and related activities, whether  
705 students or staff, comply with all applicable laws and standards of behavior and conduct  
706 themselves at all times in a manner befitting their positions and responsibilities.

707 (2) (a) The state board may, and local school boards and charter school governing

708 boards shall, adopt rules or policies implementing this section that apply to both students and  
709 staff.

710 (b) The rules or policies described in Subsection (2)(a) shall include prohibitions  
711 against the following types of conduct in accordance with Section 53G-8-211, while in the  
712 classroom, on school property, during school sponsored activities, or regardless of the location  
713 or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i)  
714 through (iv):

715 (i) the use of foul, abusive, or profane language while engaged in school related  
716 activities;

717 (ii) (A) the illicit use, possession, or distribution of controlled substances or drug  
718 paraphernalia~~[-and]~~;

719 (B) the use, possession, or distribution of [~~an electronic cigarette as defined in Section~~  
720 ~~76-10-101, tobacco, or alcoholic beverages contrary to law]~~ a cigar, a cigarette, an electronic  
721 cigarette product, or tobacco in any form, as those terms are defined in Section 76-10-101, or  
722 an alcoholic beverage that is contrary to law; and

723 (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including  
724 behavior involving physical violence, restraint, improper touching, or inappropriate exposure  
725 of body parts not normally exposed in public settings, forced ingestion of any substance, or any  
726 act which would constitute a crime against a person or public order under Utah law.

727 (3) (a) School employees who reasonably believe that a violation of this section may  
728 have occurred shall immediately report that belief to the school principal, district  
729 superintendent, or chief administrative officer of a charter school.

730 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the  
731 alleged incident, and actions taken in response, to the district superintendent or the  
732 superintendent's designee within 10 working days after receipt of the report.

733 (c) Failure of a person holding a professional certificate to report as required under this  
734 Subsection (3) constitutes an unprofessional practice.

735 (4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

736 Section 14. Section 59-14-703 (Effective 07/01/20) is amended to read:

737 **59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine**  
738 **operators -- Renewal of certification -- Requirements for certification or renewal of**



739 **certification -- Denial.**

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

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

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

744 or

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

746 (i) the cigarette rolling machine operator; or

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

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

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

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

756 (b) A cigarette rolling machine operator shall apply to the commission for a renewal of  
757 certification on or before the earlier of:

758 (i) December 31 of each year; or

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

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

763 (a) identify:

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

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

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

770 (b) certify, under penalty of perjury, that:  
771 (i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling  
772 machine, regardless of the tobacco's label or description, shall be only of a:  
773 (A) brand family listed on the commission's directory listing required by Section  
774 59-14-603; and  
775 (B) tobacco product manufacturer listed on the commission's directory listing required  
776 by Section 59-14-603;  
777 (ii) the cigarette rolling machine operator shall prohibit another person who uses the  
778 cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or  
779 a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette  
780 rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);  
781 (iii) the cigarette rolling machine operator holds a current license issued in accordance  
782 with this chapter;  
783 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title  
784 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection  
785 Act;  
786 (v) the cigarette rolling machine shall be located in a separate and defined area where  
787 the cigarette rolling machine operator ensures that an individual younger than ~~[the age specified~~  
788 ~~in Subsection (6)]~~ 21 years old may not be:  
789 (A) present at any time; or  
790 (B) permitted to enter at any time; and  
791 (vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer,  
792 or sell cigarettes produced from a cigarette rolling machine in a quantity of less than 20  
793 cigarettes per retail transaction.  
794 ~~[(6) For purposes of Subsection (5), an individual is younger than:]~~  
795 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~  
796 ~~[(b) beginning July 1, 2021, 21 years old.]~~  
797 ~~[(7)]~~ (6) If the commission determines that a cigarette rolling machine operator meets  
798 the requirements for certification or renewal of certification under this section, the commission  
799 shall grant the certification or renewal of certification.  
800 ~~[(8)]~~ (7) If the commission determines that a cigarette rolling machine operator does

801 not meet the requirements for certification or renewal of certification under this section, the  
802 commission shall:

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

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

806 Section 15. Section **76-8-311.3** is amended to read:

807 **76-8-311.3. Items prohibited in correctional and mental health facilities --**  
808 **Penalties.**

809 (1) As used in this section:

810 (a) "Contraband" means any item not specifically prohibited for possession by  
811 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

812 (b) "Controlled substance" means any substance defined as a controlled substance  
813 under Title 58, Chapter 37, Utah Controlled Substances Act.

814 (c) "Correctional facility" means:

815 (i) any facility operated by or contracting with the Department of Corrections to house  
816 offenders in either a secure or nonsecure setting;

817 (ii) any facility operated by a municipality or a county to house or detain criminal  
818 offenders;

819 (iii) any juvenile detention facility; and

820 (iv) any building or grounds appurtenant to the facility or lands granted to the state,  
821 municipality, or county for use as a correctional facility.

822 (d) "Electronic cigarette~~["is as]~~ product" means the same as that term is defined in  
823 Section [76-10-101](#).

824 (e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b,  
825 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,  
826 Chapter 37, Utah Controlled Substances Act.

827 (f) "Mental health facility" is as defined in Section [62A-15-602](#).

828 (g) "Offender" means a person in custody at a correctional facility.

829 (h) "Secure area" is as defined in Section [76-8-311.1](#).

830 (i) "Tobacco product" means a cigar, cigarette, or tobacco in any form, as those terms  
831 are defined in Section [76-10-101](#).

832 (2) Notwithstanding Section 76-10-500, a correctional or mental health facility may  
833 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,  
834 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any  
835 quantity may be:

- 836 (a) transported to or upon a correctional or mental health facility;
- 837 (b) sold or given away at any correctional or mental health facility;
- 838 (c) given to or used by any offender at a correctional or mental health facility; or
- 839 (d) knowingly or intentionally possessed at a correctional or mental health facility.

840 (3) It is a defense to any prosecution under this section if the accused in committing the  
841 act made criminal by this section with respect to:

- 842 (a) a correctional facility operated by the Department of Corrections, acted in  
843 conformity with departmental rule or policy;
- 844 (b) a correctional facility operated by a municipality, acted in conformity with the  
845 policy of the municipality;
- 846 (c) a correctional facility operated by a county, acted in conformity with the policy of  
847 the county; or
- 848 (d) a mental health facility, acted in conformity with the policy of the mental health  
849 facility.

850 (4) (a) ~~[Any person]~~ An individual who transports to or upon a correctional facility, or  
851 into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or  
852 implement of escape with intent to provide or sell it to any offender, is guilty of a second  
853 degree felony.

854 (b) ~~[Any person]~~ An individual who provides or sells to any offender at a correctional  
855 facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition,  
856 dangerous weapon, or implement of escape is guilty of a second degree felony.

857 (c) ~~[Any]~~ An offender who possesses at a correctional facility, or ~~[any]~~ detainee who  
858 possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous  
859 weapon, or implement of escape is guilty of a second degree felony.

860 (d) ~~[Any person]~~ An individual who, without the permission of the authority operating  
861 the correctional facility or the secure area of a mental health facility, knowingly possesses at a  
862 correctional facility or a secure area of a mental health facility any firearm, ammunition,

863 dangerous weapon, or implement of escape is guilty of a third degree felony.

864 (e) [~~Any person~~] An individual violates Section 76-10-306 who knowingly or  
865 intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or  
866 mental health facility.

867 (5) (a) [~~A person~~] An individual is guilty of a third degree felony who, without the  
868 permission of the authority operating the correctional facility or secure area of a mental health  
869 facility, knowingly transports to or upon a correctional facility or into a secure area of a mental  
870 health facility any:

871 (i) spirituous or fermented liquor;

872 (ii) medicine, whether or not lawfully prescribed for the offender; or

873 (iii) poison in any quantity.

874 (b) [~~A person~~] An individual is guilty of a third degree felony who knowingly violates  
875 correctional or mental health facility policy or rule by providing or selling to any offender at a  
876 correctional facility or detainee within a secure area of a mental health facility any:

877 (i) spirituous or fermented liquor;

878 (ii) medicine, whether or not lawfully prescribed for the offender; or

879 (iii) poison in any quantity.

880 (c) An inmate is guilty of a third degree felony who, in violation of correctional or  
881 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a  
882 mental health facility any:

883 (i) spirituous or fermented liquor;

884 (ii) medicine, other than medicine provided by the facility's health care providers in  
885 compliance with facility policy; or

886 (iii) poison in any quantity.

887 (d) [~~A person~~] An individual is guilty of a class A misdemeanor who, with the intent to  
888 directly or indirectly provide or sell any tobacco product or electronic cigarette product to an  
889 offender, directly or indirectly:

890 (i) transports, delivers, or distributes any tobacco product or electronic cigarette  
891 product to an offender or on the grounds of any correctional facility;

892 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another  
893 person to transport any tobacco product or electronic cigarette product to an offender or on any

894 correctional facility, if the person is acting with the mental state required for the commission of  
895 an offense; or

896 (iii) facilitates, arranges, or causes the transport of any tobacco product or electronic  
897 cigarette product in violation of this section to an offender or on the grounds of any  
898 correctional facility.

899 (e) [~~A person~~] An individual is guilty of a class A misdemeanor who, without the  
900 permission of the authority operating the correctional or mental health facility, fails to declare  
901 or knowingly possesses at a correctional facility or in a secure area of a mental health facility  
902 any:

903 (i) spirituous or fermented liquor;

904 (ii) medicine; or

905 (iii) poison in any quantity.

906 (f) [~~A person~~] An individual is guilty of a class B misdemeanor who, without the  
907 permission of the authority operating the correctional facility, knowingly engages in any  
908 activity that would facilitate the possession of any contraband by an offender in a correctional  
909 facility. The provisions of Subsection (5)(d) regarding any tobacco product or electronic  
910 cigarette product take precedence over this Subsection (5)(f).

911 (g) Exemptions may be granted for worship for Native American inmates pursuant to  
912 Section [64-13-40](#).

913 (6) The possession, distribution, or use of a controlled substance at a correctional  
914 facility or in a secure area of a mental health facility shall be prosecuted in accordance with  
915 Title 58, Chapter 37, Utah Controlled Substances Act.

916 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative  
917 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing  
918 any tobacco product or electronic cigarette product to offenders is a class A misdemeanor.

919 Section 16. Section **76-10-101** is amended to read:

920 **76-10-101. Definitions.**

921 As used in this part:

922 (1) "Cigar" means a product that contains nicotine, is intended to be burned under  
923 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in  
924 any substance containing tobacco, other than any roll of tobacco that is a cigarette as described

925 in Subsection (2).

926 (2) [~~"Cigarette"~~] Except as provided in Section 76-10-105.1, "cigarette" means a  
927 product that contains nicotine, is intended to be burned under ordinary conditions of use, and  
928 consists of:

929 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

930 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of  
931 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to  
932 be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

933 [~~(3) "Electronic cigarette" means an electronic cigarette product, as defined in Section~~  
934 ~~59-14-802.]~~

935 (3) (a) "Electronic cigarette" means:

936 (i) any electronic oral device:

937 (A) that provides an aerosol or a vapor of nicotine or other substance; and

938 (B) which simulates smoking through the device's use, or through inhalation, of the  
939 device;

940 (ii) a component of the device described in Subsection (3)(a)(i); and

941 (iii) an accessory sold in the same package as the device described in Subsection  
942 (3)(a)(i).

943 (b) "Electronic cigarette" includes an oral device that is:

944 (i) composed of a heating element, battery, or electronic circuit; and

945 (ii) marketed, manufactured, distributed, or sold as:

946 (A) an e-cigarette;

947 (B) an e-cigar;

948 (C) an e-pipe; or

949 (D) any other product name or descriptor, if the function of the product meets the  
950 definition of Subsection (3)(a).

951 (4) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette  
952 substance, or a prefilled electronic cigarette.

953 (5) "Electronic cigarette substance" means any substance, including liquid containing  
954 nicotine, used or intended for use in an electronic cigarette.

955 [~~(4)~~] (6) "Place of business" includes:

- 956 (a) a shop;
- 957 (b) a store;
- 958 (c) a factory;
- 959 (d) a public garage;
- 960 (e) an office;
- 961 (f) a theater;
- 962 (g) a recreation hall;
- 963 (h) a dance hall;
- 964 (i) a poolroom;
- 965 (j) a café;
- 966 (k) a cafeteria;
- 967 (l) a cabaret;
- 968 (m) a restaurant;
- 969 (n) a hotel;
- 970 (o) a lodging house;
- 971 (p) a streetcar;
- 972 (q) a bus;
- 973 (r) an interurban or railway passenger coach;
- 974 (s) a waiting room; and
- 975 (t) any other place of business.

976 (7) "Tobacco retailer" means:

977 (a) a general tobacco retailer as that term is defined in Section [26-62-102](#); and

978 (b) a retail tobacco specialty business.

979 (8) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled  
980 with an electronic cigarette substance.

981 [~~5~~] (9) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other  
982 lighted smoking equipment.

983 (10) "Retail tobacco specialty business" means the same as that term is defined in  
984 Section [26-62-102](#).

985 Section 17. Section **76-10-103 (Effective 07/01/20)** is amended to read:

986 **76-10-103 (Effective 07/01/20). Permitting minors to use a cigar, cigarette, an**



987 **electronic cigarette product, or tobacco in place of business.**

988 It is a class C misdemeanor for the proprietor of any place of business to knowingly  
989 permit an individual under ~~[the following ages]~~ 21 years old to frequent a place of business  
990 while the individual is using ~~[tobacco:]~~ a cigar, a cigarette, an electronic cigarette product, or  
991 tobacco in any form.

992 ~~[(1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

993 ~~[(2) beginning July 1, 2021, under 21 years old.]~~

994 Section 18. Section **76-10-104 (Effective 07/01/20)** is amended to read:

995 **76-10-104 (Effective 07/01/20). Providing a cigar, cigarette, electronic cigarette,**  
996 **or tobacco to a minor -- Penalties.**

997 ~~[(1) A person violates this section who knowingly, intentionally, recklessly, or with~~  
998 ~~criminal negligence provides a cigar, cigarette, electronic cigarette, or tobacco in any form, to~~  
999 ~~an individual under the following ages, is guilty of a class C misdemeanor on the first offense,~~  
1000 ~~a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent~~  
1001 ~~offenses:]~~

1002 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1003 ~~[(b) beginning July 1, 2021, 21 years old.]~~

1004 ~~[(2)]~~ (1) As used in this section "provides":

1005 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1006 (b) does not include the acts of the United States Postal Service or other common  
1007 carrier when engaged in the business of transporting and delivering packages for others or the  
1008 acts of a person, whether compensated or not, who transports or delivers a package for another  
1009 person without any reason to know of the package's content.

1010 (2) An individual who knowingly, intentionally, recklessly, or with criminal negligence  
1011 provides a cigar, a cigarette, an electronic cigarette product, or tobacco in any form to an  
1012 individual who is under 21 years old, is guilty of:

1013 (a) a class C misdemeanor on the first offense;

1014 (b) a class B misdemeanor on the second offense; and

1015 (c) a class A misdemeanor on any subsequent offense.

1016 (3) This section does not apply to conduct of an employee of a tobacco retailer that is a  
1017 violation of Section [76-10-114](#).

- 1018 Section 19. Section **76-10-104.1 (Effective 07/01/20)** is amended to read:
- 1019 **76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to minors --**
- 1020 **Penalties.**
- 1021 (1) [~~For purposes of this section~~] As used in this section:
- 1022 (a) "Provides":
- 1023 (i) includes selling, giving, furnishing, sending, or causing to be sent; and
- 1024 (ii) does not include the acts of the United States Postal Service or other common
- 1025 carrier when engaged in the business of transporting and delivering packages for others or the
- 1026 acts of a person, whether compensated or not, who transports or delivers a package for another
- 1027 person without any reason to know of the package's content.
- 1028 (b) "Tobacco paraphernalia":
- 1029 (i) means equipment, product, or material of any kind that is used, intended for use, or
- 1030 designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise
- 1031 introduce a cigar, a cigarette, an electronic cigarette product, or tobacco in any form into the
- 1032 human body, including:
- 1033 (A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
- 1034 screens, permanent screens, hashish heads, or punctured metal bowls;
- 1035 (B) water pipes;
- 1036 (C) carburetion tubes and devices;
- 1037 (D) smoking and carburetion masks;
- 1038 (E) roach clips, meaning objects used to hold burning material, such as a cigarette, that
- 1039 has become too small or too short to be held in the hand;
- 1040 (F) chamber pipes;
- 1041 (G) carburetor pipes;
- 1042 (H) electric pipes;
- 1043 (I) air-driven pipes;
- 1044 (J) chillums;
- 1045 (K) bongs; and
- 1046 (L) ice pipes or chillers; and
- 1047 (ii) does not include matches or lighters.
- 1048 (2) (a) It is unlawful for [~~a person~~] an individual to knowingly, intentionally,

1049 recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under[:  
1050 (i) ~~beginning July 1, 2020, and ending June 30, 2021, 20 years old;~~ and (ii) ~~beginning July 1,~~  
1051 ~~2021,~~] 21 years old.

1052 (b) ~~[A person]~~ An individual who violates this section is guilty of:

1053 (i) a class C misdemeanor on the first offense; and

1054 (ii) a class B misdemeanor on any subsequent ~~[offenses]~~ offense.

1055 Section 20. Section **76-10-105 (Effective 07/01/20)** is amended to read:

1056 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, cigarette, electronic**  
1057 **cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority -- Juvenile**  
1058 **court jurisdiction.**

1059 (1) ~~[(a)]~~ An individual who is 18 years old or older, but younger than ~~[the age specified~~  
1060 ~~in Subsection (1)(b)]~~ 21 years old, and who buys or attempts to buy, accepts, or has in the  
1061 individual's possession any cigar, cigarette, electronic cigarette product, or tobacco in any form  
1062 is:

1063 (a) guilty of an infraction; and

1064 (b) subject to:

1065 (i) a minimum fine or penalty of \$60; and

1066 (ii) participation in a court-approved tobacco education or cessation program, which  
1067 may include a participation fee.

1068 ~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

1069 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1070 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1071 (2) (a) An individual who is under ~~[the age of]~~ 18 years old and who buys or attempts  
1072 to buy, accepts, or has in the individual's possession any cigar, cigarette, electronic cigarette  
1073 product, or tobacco in any form is subject to the jurisdiction of the juvenile court and subject to  
1074 Section **78A-6-602**, unless the violation is committed on school property.

1075 (b) If a violation under this section is adjudicated under Section **78A-6-117**, the minor  
1076 may be subject to the following:

1077 ~~[(a)]~~ (i) a fine or penalty, in accordance with Section **78A-6-117**; and

1078 ~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may  
1079 include a participation fee.

1080 (3) (a) A compliance officer appointed by a board of education under Section  
1081 53G-4-402 may not issue a citation for a violation of this section committed on school  
1082 property.

1083 (b) A cited violation committed on school property shall be addressed in accordance  
1084 with Section 53G-8-211.

1085 ~~[(4)(a) This section does not apply to the purchase or possession of a cigar, cigarette,  
1086 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older  
1087 and is:]~~

1088 ~~[(i) on active duty in the United States Armed Forces; or]~~

1089 ~~[(ii) a spouse or dependent of an individual who is on active duty in the United States  
1090 Armed Forces:]~~

1091 ~~[(b) A valid, government-issued military identification card is required to verify proof  
1092 of age under Subsection (4)(a).]~~

1093 Section 21. Section 76-10-105.1 (Effective 07/01/20) is amended to read:

1094 **76-10-105.1 (Effective 07/01/20). Requirement of direct, face-to-face sale of**  
1095 **cigarettes, tobacco, and electronic cigarettes -- Minors not allowed in retail tobacco**  
1096 **specialty business -- Penalties.**

1097 (1) As used in this section:

1098 (a) "Cigarette" means the same as that term is defined in Section 59-14-102.

1099 (b) (i) "Face-to-face exchange" means a transaction made in person between an  
1100 individual and a retailer or retailer's employee.

1101 (ii) "Face-to-face exchange" does not include a sale through a:

1102 (A) vending machine; or

1103 (B) self-service display.

1104 (c) "Retailer" means a person who:

1105 (i) sells a cigarette, tobacco, or an electronic cigarette product to an individual for  
1106 personal consumption; or

1107 (ii) operates a facility with a vending machine that sells a cigarette, tobacco, or an  
1108 electronic cigarette product.

1109 (d) "Self-service display" means a display of a cigarette, tobacco, or an electronic  
1110 cigarette product to which the public has access without the intervention of a retailer or

1111 retailer's employee.

1112 (e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

1113 [(f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is  
1114 defined:]

1115 [(i) as it relates to a municipality, in Section ~~10-8-41.6~~; and]

1116 [(ii) as it relates to a county, in Section ~~17-50-333~~.]

1117 (2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, or an  
1118 electronic cigarette product only in a face-to-face exchange.

1119 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

1120 (a) a mail-order, telephone, or Internet sale made in compliance with Section  
1121 ~~59-14-509~~;

1122 (b) a sale from a vending machine or self-service display that is located in an area of a  
1123 retailer's facility:

1124 (i) that is distinct and separate from the rest of the facility; and

1125 (ii) where the retailer only allows an individual who complies with Subsection (4) to be  
1126 present; or

1127 (c) a sale at a retail tobacco specialty ~~[shop]~~ business.

1128 (4) [(a)] An individual who [~~is less than the age specified in Subsection (4)(b)~~] is under  
1129 21 years old may not enter or be present at a [~~tobacco specialty shop~~] retail tobacco specialty  
1130 business unless the individual is:

1131 [(i)] (a) accompanied by a parent or legal guardian;

1132 [(ii)] (b) present at the [~~tobacco shop~~] retail tobacco specialty business for a bona fide  
1133 commercial purpose other than to purchase a cigarette, tobacco, or an electronic cigarette[~~; or~~]  
1134 product.

1135 [(iii) ~~18 years old or older and an active duty member of the United States Armed~~  
1136 ~~Forces, as demonstrated by a valid, government-issued military identification card.~~]

1137 [(b) ~~For purposes of Subsection (4)(a), the individual is younger than:~~]

1138 [(i) ~~beginning July 1, 2020, and ending June 30, 2021, 20 years old; and~~]

1139 [(ii) ~~beginning July 1, 2021, 21 years old.~~]

1140 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)(i), an

1141 individual into an area described in Subsection (3)(b)[~~;~~] or into a [~~tobacco specialty shop~~] retail

1142 tobacco specialty business, may not allow the individual to purchase a cigarette, tobacco, or an  
 1143 electronic cigarette product.

1144 (6) A violation of Subsection (2) or (4) is a:

1145 (a) class C misdemeanor on the first offense;

1146 (b) class B misdemeanor on the second offense; and

1147 (c) class A misdemeanor on [~~the third and all~~] any subsequent offenses.

1148 (7) An individual who violates Subsection (5) is guilty of [~~providing tobacco to a~~  
 1149 ~~minor~~] an offense under Section 76-10-104.

1150 (8) (a) An ordinance, regulation, or rule adopted by the governing body of a political  
 1151 subdivision of the state or by a state agency that affects the sale, minimum age of sale,  
 1152 placement, or display of cigarettes, tobacco, or electronic [~~cigarettes~~] cigarette products that is  
 1153 not essentially identical to this section and Section 76-10-102 is superseded.

1154 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use  
 1155 ordinance by a municipal or county government.

1156 Section 22. Section 76-10-113 is enacted to read:

1157 **76-10-113. Unlawful transfer or use of proof of age.**

1158 (1) As used in this section:

1159 (a) "Proof of age" means:

1160 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification  
 1161 Card Act;

1162 (ii) a valid identification that:

1163 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,  
 1164 Part 8, Identification Card Act;

1165 (B) is issued in accordance with the laws of a state other than Utah in which the  
 1166 identification is issued;

1167 (C) includes date of birth; and

1168 (D) has a picture affixed;

1169 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform

1170 Driver License Act, or in accordance with the laws of the state in which the valid driver license  
 1171 is issued;

1172 (iv) a valid United States military identification card that:

1173 (A) includes date of birth; and

1174 (B) has a picture affixed; or

1175 (v) a valid passport.

1176 (b) "Proof of age" does not include a driving privilege card issued in accordance with

1177 Section 53-3-207.

1178 (2) An individual who knowingly and intentionally transfers that individual's proof of

1179 age to another individual to aid that individual in purchasing a cigar, a cigarette, an electronic

1180 cigarette product, or tobacco in any form, or in gaining admittance to any part of the premises

1181 of a retail tobacco specialty business, is guilty of a class B misdemeanor.

1182 (3) An individual who knowingly and intentionally uses proof of age containing false

1183 information with the intent to purchase a cigar, a cigarette, an electronic cigarette product, or

1184 tobacco in any form, or to gain admittance to any part of the premises of a retail tobacco

1185 specialty business, is guilty of a class A misdemeanor.

1186 Section 23. Section **76-10-114** is enacted to read:

1187 **76-10-114. Unlawful sale of a tobacco product or electronic cigarette product.**

1188 (1) As used in this section:

1189 (a) "Compensatory service" means service or unpaid work performed by an employee,

1190 in lieu of the payment of a fine or imprisonment.

1191 (b) "Employee" means an employee or an owner of a tobacco retailer.

1192 (2) It is unlawful for an employee to knowingly or intentionally sell or give a cigar, a

1193 cigarette, an electronic cigarette product, or tobacco in any form in the course of business to an

1194 individual who is under 21 years old.

1195 (3) An employee who violates this section is:

1196 (a) on a first violation, subject to:

1197 (i) a fine not exceeding \$1,000; or

1198 (ii) compensatory service;

1199 (b) on any subsequent violation:

1200 (i) guilty of a class C misdemeanor; and

1201 (ii) subject to:

1202 (A) a fine not exceeding \$2,000; or

1203 (B) compensatory service.

1204 Section 24. Section 77-39-101 (Effective 07/01/20) is amended to read:

1205 77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco, and  
1206 electronic cigarettes to underage individuals.

1207 (1) As used in this section, [~~“electronic cigarette” is as~~] “electronic cigarette product”  
1208 means the same as that term is defined in Section 76-10-101.

1209 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer  
1210 Classifications, may investigate the possible violation of:

1211 (i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and  
1212 attempt to purchase or make a purchase of alcohol from a retail establishment; or

1213 (ii) Section [~~76-10-104~~] 76-10-114 by requesting an individual under [~~the age specified~~  
1214 ~~in Subsection (2)(c)] 21 years old to enter into and attempt to purchase or make a purchase  
1215 from a retail establishment of:~~

1216 (A) a cigar;

1217 (B) a cigarette;

1218 (C) tobacco in any form; or

1219 (D) an electronic cigarette product.

1220 (b) A peace officer who is present at the site of a proposed purchase shall direct,  
1221 supervise, and monitor the individual requested to make the purchase.

1222 (c) Immediately following a purchase or attempted purchase or as soon as practical the  
1223 supervising peace officer shall inform the cashier and the proprietor or manager of the retail  
1224 establishment that the attempted purchaser was under the legal age to purchase:

1225 (i) alcohol; or

1226 (ii) (A) a cigar;

1227 (B) a cigarette;

1228 (C) tobacco in any form; or

1229 (D) an electronic cigarette product.

1230 (d) If a citation or information is issued, [~~it~~] the citation or information shall be issued  
1231 within seven days of the purchase.

1232 [~~(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:]~~

1233 [~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1234 [~~(ii) beginning July 1, 2021, 21 years old.]~~



1235 (3) (a) If an individual under ~~[the age of]~~ 18 years old is requested to attempt a  
1236 purchase, a written consent of that individual's parent or guardian shall be obtained prior to that  
1237 individual participating in any attempted purchase.

1238 (b) An individual requested by the peace officer to attempt a purchase may:

1239 (i) be a trained volunteer; or

1240 (ii) receive payment, but may not be paid based on the number of successful purchases  
1241 of alcohol, tobacco, or an electronic cigarette product.

1242 (4) The individual requested by the peace officer to attempt a purchase and anyone  
1243 accompanying the individual attempting a purchase may not during the attempted purchase  
1244 misrepresent the age of the individual by false or misleading identification documentation in  
1245 attempting the purchase.

1246 (5) An individual requested to attempt to purchase or make a purchase pursuant to this  
1247 section is immune from prosecution, suit, or civil liability for the purchase of, attempted  
1248 purchase of, or possession of alcohol, a cigar, a cigarette, tobacco in any form, or an electronic  
1249 cigarette product if a peace officer directs, supervises, and monitors the individual.

1250 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section  
1251 shall be conducted[:] within a 12-month period:

1252 [~~(i) on a random basis; and~~]

1253 [~~(ii) within a 12-month period at any one retail establishment location not more often~~  
1254 ~~than:]~~

1255 [~~(A) two times for the attempted purchase of:]~~

1256 [~~(I) a cigar;~~]

1257 [~~(II) a cigarette;~~]

1258 [~~(III) tobacco in any form; or~~]

1259 [~~(IV) an electronic cigarette; and~~]

1260 [~~(B) four times for the attempted purchase of alcohol:]~~

1261 (i) on a random basis at any one retail establishment location, not more often than four  
1262 times for the attempted purchase of alcohol; and

1263 (ii) a minimum of two times at a retail establishment that sells cigars, cigarettes,  
1264 tobacco in any form, or electronic cigarette products, for the attempted purchase of:

1265 (A) a cigar;

1266 (B) a cigarette;

1267 (C) tobacco in any form; or

1268 (D) an electronic cigarette product.

1269 (b) This section does not prohibit an investigation or an attempt to purchase tobacco  
1270 under this section if:

1271 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a  
1272 cigar, a cigarette, tobacco in any form, or an electronic cigarette product to an individual under  
1273 the age established by Section [32B-4-403](#) or [~~76-10-104~~] [76-10-114](#); and

1274 (ii) the supervising peace officer makes a written record of the grounds for the  
1275 reasonable suspicion.

1276 (7) (a) The peace officer exercising direction, supervision, and monitoring of the  
1277 attempted purchase shall make a report of the attempted purchase, whether or not a purchase  
1278 was made.

1279 (b) The report required by this Subsection (7) shall include:

1280 (i) the name of the supervising peace officer;

1281 (ii) the name of the individual attempting the purchase;

1282 (iii) a photograph of the individual attempting the purchase showing how that  
1283 individual appeared at the time of the attempted purchase;

1284 (iv) the name and description of the cashier or proprietor from whom the individual  
1285 attempted the purchase;

1286 (v) the name and address of the retail establishment; and

1287 (vi) the date and time of the attempted purchase.

1288 Section 25. **Effective date.**

1289 This bill takes effect on July 1, 2020.