

**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 a date from which certain laws are applicable to retail tobacco specialty

businesses;

- ▶ 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 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;



- 26           ▶ increases the minimum age for obtaining, possessing, using, providing, or
- 27 furnishing tobacco products and paraphernalia and electronic cigarette products to
- 28 21 years old;
- 29           ▶ makes it a crime for an employee of a retail tobacco specialty business to allow an
- 30 individual in certain circumstances to gain access to the premises of the business or
- 31 to purchase a cigar, cigarette, electronic cigarette product, or tobacco in any form;
- 32           ▶ amends the number of times that a peace officer must conduct an investigation of a
- 33 retail shop for underage tobacco sales; and
- 34           ▶ makes technical and conforming changes.

35 **Money Appropriated in this Bill:**

36           None

37 **Other Special Clauses:**

38           This bill provides a special effective date.

39 **Utah Code Sections Affected:**

40 AMENDS:

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

- 57 **76-10-103 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 58 **76-10-104 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 59 **76-10-104.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 60 **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 61 **76-10-105.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 62 **77-39-101 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

63 ENACTS:

- 64 **26-62-401**, Utah Code Annotated 1953
- 65 **26-62-402**, Utah Code Annotated 1953
- 66 **76-10-113**, Utah Code Annotated 1953
- 67 **76-10-114**, Utah Code Annotated 1953



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

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

71 **10-8-41.6. Regulation of retail tobacco specialty business.**

72 (1) As used in this section:

73 (a) "Community location" means:

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

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

76 (iii) a trade or technical school;

77 (iv) a church;

78 (v) a public library;

79 (vi) a public playground;

80 (vii) a public park;

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

82 (ix) a public recreational facility;

83 (x) a public arcade; or

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

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

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

87 **26A-1-102**.

88 (d) "Permittee" means a person licensed under this section to conduct business as a  
89 retail tobacco specialty business.

90 (e) "Retail tobacco specialty business" means a commercial establishment in which:

91 (i) the sale of tobacco products accounts for more than 35% of the total quarterly gross  
92 receipts for the establishment;

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

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

97 (iv) the commercial establishment holds itself out as a retail tobacco specialty business;

98 or

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

100 (f) "Self-service display" means the same as that term is defined in Section  
101 76-10-105.1.

102 (g) "Tobacco product" means:

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

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

106 (A) chewing tobacco; or

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

108 and

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

110 (2) The regulation of a retail tobacco specialty business is an exercise of the police  
111 powers of the state, and through delegation, 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 restricting the sale and distribution of

150 cigarettes and smokeless tobacco to protect children and adolescents issued by the United  
151 States Food and Drug Administration, 21 C.F.R. Part 1140;

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

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

155 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has  
156 a business license and is operating in a municipality in accordance with all applicable laws  
157 except for the requirement in Subsection (4), on or before December 31, [~~2015~~] 2018, is  
158 exempt from Subsection (4).

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

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

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

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

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

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

170 (B) zoning ordinances;

171 (C) building codes; and

172 (D) the requirements of a retail tobacco specialty business license issued before  
173 December 31, [~~2015~~] 2018.

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

175 **10-8-47 (Effective 07/01/20). Intoxication -- Fights -- Disorderly conduct --**

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

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

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

179 **drug addicts.**

180 (1) A municipal legislative body may:

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

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

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

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

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

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

197 (2) A city may:

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

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

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

206 **17-50-333. Regulation of retail tobacco specialty business.**

207 (1) As used in this section:

208 (a) "Community location" means:

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

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

211 (iii) a trade or technical school;

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



243 and

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

245 (2) The regulation of a retail tobacco specialty business is an exercise of the police  
246 powers of the state, and through delegation, to other governmental entities.

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

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

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

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

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

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

268 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter  
269 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in  
270 which the retail tobacco specialty business is located; and

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

272 (b) A person that was licensed to conduct business as a retail tobacco specialty  
273 business in a county before July 1, 2018, shall obtain a permit from a local health department

274 under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.

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

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

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

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

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

283 (ii) if a licensee violates the regulations restricting the sale and distribution of  
284 cigarettes and smokeless tobacco to protect children and adolescents issued by the United  
285 States Food and Drug Administration, 21 C.F.R. Part 1140;

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

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

289 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has  
290 a business license and is operating in a county in accordance with all applicable laws except for  
291 the requirement in Subsection (4), on or before December 31, ~~2015~~ 2018, is exempt from  
292 Subsection (4).

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

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

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

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

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

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

304 (B) zoning ordinances;

305 (C) building codes; and  
306 (D) the requirements of a retail tobacco specialty business license issued before  
307 December 31, [~~2015~~] 2018.

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

309 **26-62-102. Definitions.**

310 As used in this chapter:

311 (1) "Community location" means the same as that term is defined:

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

313 (b) as it relates to a county, in Section 17-50-333.

314 (2) "Employee" means an employee of a tobacco retailer.

315 (3) "Enforcing agency" means the state Department of Health, or any local health  
316 department enforcing the provisions of this chapter.

317 (4) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco  
318 specialty business.

319 (5) "Local health department" means the same as that term is defined in Section  
320 26A-1-102.

321 (6) "Permit" means a tobacco retail permit issued under this chapter.

322 (7) (a) "Proof of age" means:

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

325 (ii) a valid identification that:

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

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

330 (C) includes date of birth; and

331 (D) has a picture affixed;

332 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform  
333 Driver License Act, or in accordance with the laws of the state in which the valid driver license  
334 is issued;

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

336 (A) includes date of birth; and

337 (B) has a picture affixed; or

338 (v) a valid passport.

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

340 with Section 53-3-207.

341 ~~[(7)]~~ (8) "Retail tobacco specialty business" means the same as that term is defined:

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

343 (b) as it relates to a county, in Section 17-50-333.

344 ~~[(8)]~~ (9) "Tax commission license" means a license issued by the State Tax

345 Commission under:

346 (a) Section 59-14-201 to sell cigarettes at retail;

347 (b) Section 59-14-301 to sell tobacco products at retail; or

348 (c) Section 59-14-803 to sell an electronic cigarette product.

349 ~~[(9)]~~ (10) "Tobacco product" means:

350 (a) a cigar, cigarette, or electronic cigarette product as those terms are defined in

351 Section 76-10-101;

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

353 (i) chewing tobacco; or

354 (ii) any substitute for a tobacco product, including flavoring or additives to tobacco; or

355 (c) tobacco paraphernalia as that term is defined in Section 76-10-104.1.

356 ~~[(10)]~~ (11) "Tobacco retailer" means a person that is required to obtain a tax

357 commission license.

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

359 **26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty**

360 **business.**

361 A retail tobacco specialty business shall:

362 (1) electronically verify proof of age for any individual that enters the premises of the

363 business in accordance with Part 4, Proof of Age Requirements;

364 ~~[(1)]~~ (2) except as provided in Subsection 76-10-105.1(4), prohibit any individual from

365 entering the business if the individual is~~[- (a) beginning July 1, 2020, and ending June 30,~~

366 ~~2021, under 20 years old; and (b) beginning July 1, 2021,] under 21 years old; and~~

367 ~~[(2)]~~ (3) prominently display at the retail tobacco specialty business a sign on the  
 368 public entrance of the business that communicates:

369 (a) the prohibition on the presence of an individual under 21 years old in a retail  
 370 tobacco specialty business in Subsection 76-10-105.1(4); and

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

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

374 **26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

375 (1) At a civil hearing conducted under Section 26-62-302, evidence of the final  
 376 criminal conviction of a tobacco retailer or employee for violation of Section 76-10-104 or  
 377 76-10-114 at the same location and within the same time period as the location and time period  
 378 alleged in the civil hearing for violation of this chapter for sale of tobacco products to an  
 379 individual under [~~the following ages~~] 21 years old is prima facie evidence of a violation of this  
 380 chapter[.]:

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

383 (2) If the tobacco retailer is convicted of violating Section 76-10-104 or 76-10-114, the  
 384 enforcing agency:

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

387 (b) may revoke or suspend a permit in accordance with Section 26-62-305 or  
 388 26-62-402.

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

390 **26-62-305 (Effective 07/01/20). Penalties.**

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

395 (b) If multiple violations are found in a single inspection by an enforcing agency or  
 396 investigation [~~only one violation shall count toward the penalties described in this section.~~ (2)

397 [~~The administrative penalty for~~] by a law enforcement agency under Section 77-39-101, the

398 enforcing agency shall treat the multiple violations as one single violation under Subsections  
399 (2), (3), and (4).

400 (2) If a violation is found in an inspection by an enforcing agency, the enforcing agency  
401 may:

402 (a) on a first violation at a retail location [is], impose a penalty of [not] no more than  
403 \$500[-];

404 (b) [The administrative penalty for] on a second violation at the same retail location  
405 that occurs within one year of a previous violation [is], impose a penalty of [not] no more than  
406 \$750[-];

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

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

411 (ii) a penalty of [not] no more than \$1,000[-]; or

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

413 [~~(a) revoke a permit if a fourth violation occurs within two years of three previous~~  
414 ~~violations;~~

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

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

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

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

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

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

423 (ii) revoke a permit of the retailer; and

424 (iii) if applicable, recommend to a municipal or county that retail tobacco specialty  
425 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

426 (3) If a violation is found in an investigation of a general tobacco retailer by a law  
427 enforcement agency under Section 77-39-101 for the sale of a tobacco product to an individual  
428 under 21 years old, the enforcing agency shall:

429 (a) on a first violation, impose a fine of no more than \$1,000 on the general tobacco  
430 retailer; and

431 (b) on the second violation:

432 (i) impose a fine not exceeding \$1,500, and

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

434 (4) If a violation is found in an investigation of a retail tobacco specialty business by a  
435 law enforcement agency under Section [77-39-101](#) for the sale of a tobacco product to an  
436 individual under 21 years old, the enforcing agency shall apply the provisions of Section  
437 [26-62-402](#).

438 ~~[(4)]~~ (5) (a) Except when a transfer described in Subsection ~~[(5)]~~ (6) occurs, a local  
439 health department may not issue a permit to:

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

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

445 (b) A person whose permit:

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

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

452 ~~[(5)]~~ (6) Violations of this chapter, Section [10-8-41.6](#), ~~[or]~~ Section [17-50-333](#), or  
453 Section [26-62-402](#) that occur at a tobacco retailer location shall stay on the record for that  
454 tobacco retailer location unless:

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

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

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

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

461 **26-62-401. Verification of proof of age.**

462 (1) As used in this section, "employee" means an employee of a retail tobacco specialty  
463 business.

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

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

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

468 (b) verify the validity of the proof of age electronically under the verification program  
469 created in accordance with Subsection (4).

470 (4) The department shall implement an electronic verification program that adopts the  
471 specifications and security measures established under Subsection [32B-1-407\(5\)](#).

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

474 (b) Information obtained under this section:

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

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

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

480 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

481 (ii) purchase a tobacco product.

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

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

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

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



- 491 (a) an employee;
- 492 (b) a peace officer; or
- 493 (c) a representative of an enforcing agency.

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

495 **26-62-402. Penalties.**

496 (1) If a violation of this part is found in an investigation of a retail tobacco specialty  
497 business by a law enforcement agency under Section 77-39-101, the enforcing agency shall:

- 498 (a) on a first violation, impose a fine not exceeding \$5,000; and
- 499 (b) on a second violation:
  - 500 (i) impose a fine not exceeding \$15,000,
  - 501 (ii) revoke the retail tobacco specialty business's permit; and
  - 502 (iii) if applicable, recommend to the municipality or county that the retail tobacco  
503 specialty license issued under Section 10-8-61.6. or 17-50-333 to the retail tobacco specialty  
504 business be suspended or revoked.

505 (2) If multiple violations are found in a single investigation by a law enforcement  
506 agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as a  
507 single violation.

508 (3) A retail tobacco specialty business is not subject to the penalties under this section  
509 if the enforcing agency finds:

- 510 (a) an employee who is not the owner of the business is responsible for the violation of  
511 the requirements of this part;
- 512 (b) the employee intentionally violated the requirements; and
- 513 (c) the retail tobacco specialty business acted in good faith to comply with the  
514 requirements.

515 Section 10. Section **51-9-203 (Effective 07/01/20)** is amended to read:

516 **51-9-203 (Effective 07/01/20). Requirements for tobacco programs.**

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

- 520 (a) submit a request to the Department of Health containing the following information:
  - 521 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate

522 sound management and periodic evaluation of the campaign's relevance to the intended  
523 audience, particularly in campaigns directed toward youth, including audience awareness of the  
524 campaign and recollection of the main message;

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

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

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

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

532 (C) if directed toward youth:

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

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

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

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

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

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

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

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

542 ~~(A) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (B) beginning July 1,~~  
543 ~~2021,] 21 years old;~~

544 (b) agree, by contract, to file an annual written report with the Department of Health  
545 that contains the following:

546 (i) the amount funded;

547 (ii) the amount expended;

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

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

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

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

555 (i) engage in any lobbying or political activity, including the support of, or opposition  
556 to, candidates, ballot questions, referenda, or similar activities; or  
557 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to  
558 enforce:

559 (A) the provisions of the Master Settlement Agreement;  
560 (B) Title 26, Chapter 38, Utah Indoor Clean Air Act;  
561 (C) Title 26, Chapter 62, Part 3, Enforcement; and  
562 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and  
563 (d) agree, by contract, to repay the funds provided under this part if the organization:  
564 (i) fails to file a timely report as required by Subsection (1)(b); or  
565 (ii) uses any portion of the funds in violation of Subsection (1)(c).

566 (2) The Department of Health shall review and evaluate the success and effectiveness  
567 of any program or campaign that receives funding pursuant to a request submitted under  
568 Subsection (1). The review and evaluation:

569 (a) shall include a comparison of annual smoking trends;  
570 (b) may be conducted by an independent evaluator; and  
571 (c) may be paid for by funds appropriated from the account for that purpose.

572 (3) The Department of Health shall annually report to the Social Services  
573 Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).

574 (4) An organization that fails to comply with the contract requirements set forth in  
575 Subsection (1) shall:

576 (a) repay the state as provided in Subsection (1)(d); and  
577 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.

578 (5) The attorney general shall be responsible for recovering funds that are required to  
579 be repaid to the state under this section.

580 (6) Nothing in this section may be construed as applying to funds that are not  
581 appropriated under this part.

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

583 **53-3-229. Prohibited uses of license certificate -- Penalty.**

- 584 (1) It is a class C misdemeanor for ~~[a person]~~ an individual to:
- 585 (a) lend or knowingly permit the use of a license certificate issued to the ~~[person]~~
- 586 individual, by ~~[a person]~~ another individual not entitled to ~~[it]~~ the license certificate;
- 587 (b) display or ~~[to]~~ represent as the ~~[person's]~~ individual's own license certificate a
- 588 license certificate not issued to the ~~[person]~~ individual;
- 589 (c) refuse to surrender to the division or a peace officer upon demand any license
- 590 certificate issued by the division;
- 591 (d) use a false name or give a false address in any application for a license or any
- 592 renewal or duplicate of the license certificate, or to knowingly make a false statement, or to
- 593 knowingly conceal a material fact or otherwise commit a fraud in the application;
- 594 (e) display a canceled, denied, revoked, suspended, or disqualified driver license
- 595 certificate as a valid driver license certificate;
- 596 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
- 597 driver license certificate issued by a governmental entity if the item is not an authentic driver
- 598 license certificate issued by that governmental entity; or
- 599 (g) alter any information on an authentic driver license certificate so that it no longer
- 600 represents the information originally displayed.
- 601 (2) The provisions of Subsection (1)(e) do not prohibit the use of a ~~[person's]~~
- 602 individual's driver license certificate as a means of personal identification.
- 603 (3) It is a class A misdemeanor to knowingly:
- 604 (a) issue a driver license certificate with false or fraudulent information;
- 605 (b) issue a driver license certificate to ~~[a person]~~ an individual who is younger than 21
- 606 years ~~[of age]~~ old if the driver license certificate is not distinguished as required for ~~[a person]~~
- 607 an individual who is younger than 21 years ~~[of age]~~ old under Section [53-3-207](#); or
- 608 (c) acquire, use, display, or transfer a false or altered driver license certificate to
- 609 procure~~[-]~~ a cigar, a cigarette, an electronic cigarette product, or tobacco in any form, as those
- 610 terms are defined in Section [76-10-101](#).
- 611 ~~[(i) a cigarette;]~~
- 612 ~~[(ii) an electronic cigarette, as defined in Section [76-10-101](#);~~
- 613 ~~[(iii) tobacco; or]~~
- 614 ~~[(iv) a tobacco product.]~~

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

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

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

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

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

625 **53-3-810. Prohibited uses of identification card -- Penalties.**

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

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

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

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

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

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

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

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

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

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

644 (b) issue an identification card to [~~any person~~] and individual who is younger than 21  
645 years [~~of age~~] old if the identification card is not distinguished as required for [~~a person~~] an

646 individual who is younger than 21 years [of age] old under Section 53-3-806; or

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

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

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

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

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

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

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

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

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

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

664 **53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of**  
665 **violations -- Limitation of liability.**

666 (1) The Legislature recognizes that:

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

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

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

676 (d) these individuals often play major roles in establishing standards of acceptable

677 behavior in the school and community, and establishing and maintaining the reputation of the  
678 school and the level of community confidence and support afforded the school; and

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

683 (2) (a) The state board may, and local school boards and charter school governing  
684 boards shall, adopt rules or policies implementing this section that apply to both students and  
685 staff.

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

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

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

695 (B) the use, possession, or distribution of ~~[an electronic cigarette as defined in Section~~  
696 ~~76-10-101, tobacco, or alcoholic beverages contrary to law]~~ a cigar, a cigarette, an electronic  
697 cigarette product, or tobacco in any form, as those terms are defined in Section 76-10-101, or  
698 an alcoholic beverage that is contrary to law; and

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

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

706 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the  
707 alleged incident, and actions taken in response, to the district superintendent or the

708 superintendent's designee within 10 working days after receipt of the report.

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

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

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

713 **59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine**  
714 **operators -- Renewal of certification -- Requirements for certification or renewal of**  
715 **certification -- Denial.**

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

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

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

720 or

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

722 (i) the cigarette rolling machine operator; or

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

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

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

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

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

734 (i) December 31 of each year; or

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

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



- 739 (a) identify:
- 740 (i) the cigarette rolling machine operator's name and address;
- 741 (ii) the location, make, and brand of the cigarette rolling machine operator's cigarette  
742 rolling machine; and
- 743 (iii) each person from whom the cigarette rolling machine operator will purchase or be  
744 provided tobacco products that the cigarette rolling machine operator will use to produce  
745 cigarettes; and
- 746 (b) certify, under penalty of perjury, that:
- 747 (i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling  
748 machine, regardless of the tobacco's label or description, shall be only of a:
- 749 (A) brand family listed on the commission's directory listing required by Section  
750 59-14-603; and
- 751 (B) tobacco product manufacturer listed on the commission's directory listing required  
752 by Section 59-14-603;
- 753 (ii) the cigarette rolling machine operator shall prohibit another person who uses the  
754 cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or  
755 a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette  
756 rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);
- 757 (iii) the cigarette rolling machine operator holds a current license issued in accordance  
758 with this chapter;
- 759 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title  
760 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection  
761 Act;
- 762 (v) the cigarette rolling machine shall be located in a separate and defined area where  
763 the cigarette rolling machine operator ensures that an individual younger than ~~[the age specified~~  
764 ~~in Subsection (6)]~~ 21 years old may not be:
- 765 (A) present at any time; or
- 766 (B) permitted to enter at any time; and
- 767 (vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer,  
768 or sell cigarettes produced from a cigarette rolling machine in a quantity of less than 20  
769 cigarettes per retail transaction.

770 [~~(6) For purposes of Subsection (5), an individual is younger than:]~~  
771 [~~(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~  
772 [~~(b) beginning July 1, 2021, 21 years old.]~~

773 [(7)] (6) If the commission determines that a cigarette rolling machine operator meets  
774 the requirements for certification or renewal of certification under this section, the commission  
775 shall grant the certification or renewal of certification.

776 [(8)] (7) If the commission determines that a cigarette rolling machine operator does  
777 not meet the requirements for certification or renewal of certification under this section, the  
778 commission shall:

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

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

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

783 **76-8-311.3. Items prohibited in correctional and mental health facilities --**

784 **Penalties.**

785 (1) As used in this section:

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

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

790 (c) "Correctional facility" means:

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

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

795 (iii) any juvenile detention facility; and

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

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

800 (e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b,

801 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,  
802 Chapter 37, Utah Controlled Substances Act.

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

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

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

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

808 (2) Notwithstanding Section [76-10-500](#), a correctional or mental health facility may  
809 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,  
810 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any  
811 quantity may be:

812 (a) transported to or upon a correctional or mental health facility;

813 (b) sold or given away at any correctional or mental health facility;

814 (c) given to or used by any offender at a correctional or mental health facility; or

815 (d) knowingly or intentionally possessed at a correctional or mental health facility.

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

818 (a) a correctional facility operated by the Department of Corrections, acted in  
819 conformity with departmental rule or policy;

820 (b) a correctional facility operated by a municipality, acted in conformity with the  
821 policy of the municipality;

822 (c) a correctional facility operated by a county, acted in conformity with the policy of  
823 the county; or

824 (d) a mental health facility, acted in conformity with the policy of the mental health  
825 facility.

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

830 (b) [~~Any person~~] An individual who provides or sells to any offender at a correctional  
831 facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition,

832 dangerous weapon, or implement of escape is guilty of a second degree felony.

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

836 (d) [~~Any person~~] An individual who, without the permission of the authority operating  
837 the correctional facility or the secure area of a mental health facility, knowingly possesses at a  
838 correctional facility or a secure area of a mental health facility any firearm, ammunition,  
839 dangerous weapon, or implement of escape is guilty of a third degree felony.

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

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

- 847 (i) spirituous or fermented liquor;
- 848 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 849 (iii) poison in any quantity.

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

- 853 (i) spirituous or fermented liquor;
- 854 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 855 (iii) poison in any quantity.

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

- 859 (i) spirituous or fermented liquor;
- 860 (ii) medicine, other than medicine provided by the facility's health care providers in  
861 compliance with facility policy; or
- 862 (iii) poison in any quantity.

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

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

868 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another  
869 person to transport any tobacco product or electronic cigarette product to an offender or on any  
870 correctional facility, if the person is acting with the mental state required for the commission of  
871 an offense; or

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

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

879 (i) spirituous or fermented liquor;

880 (ii) medicine; or

881 (iii) poison in any quantity.

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

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

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

892 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative  
893 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing

894 any tobacco product or electronic cigarette product to offenders is a class A misdemeanor.

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

896 **76-10-101. Definitions.**

897 As used in this part:

898 (1) "Cigar" means a product that contains nicotine, is intended to be burned under  
899 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in  
900 any substance containing tobacco, other than any roll of tobacco that is a cigarette as described  
901 in Subsection (2).

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

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

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

909 [~~(3) "Electronic cigarette" means an electronic cigarette product, as defined in Section~~  
910 ~~59-14-802;~~]

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

912 (i) any electronic oral device:

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

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

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

917 (iii) an accessory sold in the same package as the device described in Subsection

918 (3)(a)(i).

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

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

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

922 (A) an e-cigarette;

923 (B) an e-cigar;

924 (C) an e-pipe; or

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

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

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

931 [~~4~~] (6) "Place of business" includes:

- 932 (a) a shop;
- 933 (b) a store;
- 934 (c) a factory;
- 935 (d) a public garage;
- 936 (e) an office;
- 937 (f) a theater;
- 938 (g) a recreation hall;
- 939 (h) a dance hall;
- 940 (i) a poolroom;
- 941 (j) a café;
- 942 (k) a cafeteria;
- 943 (l) a cabaret;
- 944 (m) a restaurant;
- 945 (n) a hotel;
- 946 (o) a lodging house;
- 947 (p) a streetcar;
- 948 (q) a bus;
- 949 (r) an interurban or railway passenger coach;
- 950 (s) a waiting room; and
- 951 (t) any other place of business.

952 (7) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled  
953 with an electronic cigarette substance.

954 [~~5~~] (8) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other  
955 lighted smoking equipment.

956 (9) "Retail tobacco specialty business" means the same as that term is defined in  
957 Section 26-62-102.

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

959 **76-10-103 (Effective 07/01/20). Permitting minors to use a cigar, cigarette, an**  
960 **electronic cigarette product, or tobacco in place of business.**

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

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

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

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

968 **76-10-104 (Effective 07/01/20). Providing a cigar, cigarette, electronic cigarette,**  
969 **or tobacco to a minor -- Penalties.**

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

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

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

977 ~~[(2)]~~ (1) As used in this section "provides":

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

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

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

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



- 987            (b) a class B misdemeanor on the second offense; and
- 988            (c) a class A misdemeanor on any subsequent offense.
- 989            (3) This section does not apply to conduct of an employee of a retail tobacco specialty
- 990 business that is a violation of Section [76-10-114](#).

991            Section 19. Section **76-10-104.1 (Effective 07/01/20)** is amended to read:

992            **76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to minors --**

993 **Penalties.**

994            (1) [~~For purposes of this section~~] As used in this section:

995            (a) "Provides":

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

997            (ii) does not include the acts of the United States Postal Service or other common  
998 carrier when engaged in the business of transporting and delivering packages for others or the  
999 acts of a person, whether compensated or not, who transports or delivers a package for another  
1000 person without any reason to know of the package's content.

1001            (b) "Tobacco paraphernalia":

1002            (i) means equipment, product, or material of any kind that is used, intended for use, or  
1003 designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise  
1004 introduce a cigar, a cigarette, an electronic cigarette product, or tobacco in any form into the  
1005 human body, including:

1006            (A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without  
1007 screens, permanent screens, hashish heads, or punctured metal bowls;

1008            (B) water pipes;

1009            (C) carburetion tubes and devices;

1010            (D) smoking and carburetion masks;

1011            (E) roach clips, meaning objects used to hold burning material, such as a cigarette, that  
1012 has become too small or too short to be held in the hand;

1013            (F) chamber pipes;

1014            (G) carburetor pipes;

1015            (H) electric pipes;

1016            (I) air-driven pipes;

1017            (J) chillums;

1018 (K) bongs; and  
1019 (L) ice pipes or chillers; and  
1020 (ii) does not include matches or lighters.

1021 (2) (a) It is unlawful for ~~[a person]~~ an individual to knowingly, intentionally,  
1022 recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under[:  
1023 ~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1,~~  
1024 ~~2021,~~] 21 years old.

1025 (b) ~~[A person]~~ An individual who violates this section is guilty of:

1026 (i) a class C misdemeanor on the first offense; and

1027 (ii) a class B misdemeanor on any subsequent ~~[offenses]~~ offense.

1028 Section 20. Section **76-10-105 (Effective 07/01/20)** is amended to read:

1029 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, cigarette, electronic**  
1030 **cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority -- Juvenile**  
1031 **court jurisdiction.**

1032 (1) ~~[(a)]~~ An individual who is 18 years old or older, but younger than ~~[the age specified~~  
1033 ~~in Subsection (1)(b)]~~ 21 years old, and who buys or attempts to buy, accepts, or has in the  
1034 individual's possession any cigar, cigarette, electronic cigarette product, or tobacco in any form  
1035 is:

1036 (a) guilty of an infraction; and

1037 (b) subject to:

1038 (i) a minimum fine or penalty of \$60; and

1039 (ii) participation in a court-approved tobacco education or cessation program, which  
1040 may include a participation fee.

1041 ~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

1042 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1043 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1044 (2) (a) An individual who is under ~~[the age of]~~ 18 years old and who buys or attempts  
1045 to buy, accepts, or has in the individual's possession any cigar, cigarette, electronic cigarette  
1046 product, or tobacco in any form is subject to the jurisdiction of the juvenile court and subject to  
1047 Section **78A-6-602**, unless the violation is committed on school property.

1048 (b) If a violation under this section is adjudicated under Section **78A-6-117**, the minor

1049 may be subject to the following:

1050 ~~[(a)]~~ (i) a fine or penalty, in accordance with Section 78A-6-117; and

1051 ~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may  
1052 include a participation fee.

1053 (3) (a) A compliance officer appointed by a board of education under Section  
1054 53G-4-402 may not issue a citation for a violation of this section committed on school  
1055 property.

1056 (b) A cited violation committed on school property shall be addressed in accordance  
1057 with Section 53G-8-211.

1058 ~~[(4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,  
1059 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older  
1060 and is:]~~

1061 ~~[(i) on active duty in the United States Armed Forces; or]~~

1062 ~~[(ii) a spouse or dependent of an individual who is on active duty in the United States  
1063 Armed Forces:]~~

1064 ~~[(b) A valid, government-issued military identification card is required to verify proof  
1065 of age under Subsection (4)(a).]~~

1066 Section 21. Section 76-10-105.1 (Effective 07/01/20) is amended to read:

1067 **76-10-105.1 (Effective 07/01/20). Requirement of direct, face-to-face sale of**  
1068 **cigarettes, tobacco, and electronic cigarettes -- Minors not allowed in tobacco specialty**  
1069 **shop -- Penalties.**

1070 (1) As used in this section:

1071 (a) "Cigarette" means the same as that term is defined in Section 59-14-102.

1072 (b) (i) "Face-to-face exchange" means a transaction made in person between an  
1073 individual and a retailer or retailer's employee.

1074 (ii) "Face-to-face exchange" does not include a sale through a:

1075 (A) vending machine; or

1076 (B) self-service display.

1077 (c) "Retailer" means a person who:

1078 (i) sells a cigarette, tobacco, or an electronic cigarette product to an individual for  
1079 personal consumption; or

1080 (ii) operates a facility with a vending machine that sells a cigarette, tobacco, or an  
1081 electronic cigarette product.

1082 (d) "Self-service display" means a display of a cigarette, tobacco, or an electronic  
1083 cigarette product to which the public has access without the intervention of a retailer or  
1084 retailer's employee.

1085 (e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

1086 ~~[(f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is~~  
1087 ~~defined:]~~

1088 ~~[(i) as it relates to a municipality, in Section [10-8-41.6](#); and]~~

1089 ~~[(ii) as it relates to a county, in Section [17-50-333](#).]~~

1090 (2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, or an  
1091 electronic cigarette product only in a face-to-face exchange.

1092 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

1093 (a) a mail-order, telephone, or Internet sale made in compliance with Section  
1094 [59-14-509](#);

1095 (b) a sale from a vending machine or self-service display that is located in an area of a  
1096 retailer's facility:

1097 (i) that is distinct and separate from the rest of the facility; and

1098 (ii) where the retailer only allows an individual who complies with Subsection (4) to be  
1099 present; or

1100 (c) a sale at a retail tobacco specialty [shop] business.

1101 (4) ~~[(a)]~~ An individual who ~~[is less than the age specified in Subsection (4)(b)]~~ under  
1102 21 years old may not enter or be present at a ~~[tobacco specialty shop]~~ retail tobacco specialty  
1103 business unless the individual is:

1104 ~~[(i)]~~ (a) accompanied by a parent or legal guardian;

1105 ~~[(ii)]~~ (b) present at the ~~[tobacco shop]~~ retail tobacco specialty business for a bona fide  
1106 commercial purpose other than to purchase a cigarette, tobacco, or an electronic cigarette~~[, or]~~  
1107 product.

1108 ~~[(iii)] 18 years old or older and an active duty member of the United States Armed~~  
1109 ~~Forces, as demonstrated by a valid, government-issued military identification card.]~~

1110 ~~[(b) For purposes of Subsection (4)(a), the individual is younger than:]~~

1111 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1112 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1113 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)(i), an  
1114 individual into an area described in Subsection (3)(b)[~~;~~] or into a ~~[tobacco specialty shop]~~ retail  
1115 tobacco specialty business, may not allow the individual to purchase a cigarette, tobacco, or an  
1116 electronic cigarette product.

1117 (6) A violation of Subsection (2) or (4) is a:

1118 (a) class C misdemeanor on the first offense;

1119 (b) class B misdemeanor on the second offense; and

1120 (c) class A misdemeanor on the ~~[third and all]~~ any subsequent offenses.

1121 (7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor  
1122 under Section 76-10-104.

1123 (8) (a) An ordinance, regulation, or rule adopted by the governing body of a political  
1124 subdivision of the state or by a state agency that affects the sale, minimum age of sale,  
1125 placement, or display of cigarettes, tobacco, or electronic ~~[cigarettes]~~ cigarette products that is  
1126 not essentially identical to this section and Section 76-10-102 is superseded.

1127 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use  
1128 ordinance by a municipal or county government.

1129 Section 22. Section 76-10-113 is enacted to read:

1130 **76-10-113. Unlawful transfer or use of proof of age.**

1131 (1) As used in this section:

1132 (a) "Proof of age" means:

1133 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification  
1134 Card Act;

1135 (ii) a valid identification that:

1136 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,  
1137 Part 8, Identification Card Act;

1138 (B) is issued in accordance with the laws of a state other than Utah in which the  
1139 identification is issued;

1140 (C) includes date of birth; and

1141 (D) has a picture affixed;

1142 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform  
1143 Driver License Act, or in accordance with the laws of the state in which the valid driver license  
1144 is issued;

1145 (iv) a valid United States military identification card that:

1146 (A) includes date of birth; and

1147 (B) has a picture affixed; or

1148 (v) a valid passport.

1149 (b) "Proof of age" does not include a driving privilege card issued in accordance with  
1150 Section [53-3-207](#).

1151 (2) An individual who knowingly and intentionally transfers that individual's proof of  
1152 age to another individual to aid that individual in purchasing a cigar, a cigarette, an electronic  
1153 cigarette product, or tobacco in any form, or in gaining admittance to any part of the premises  
1154 of a retail tobacco specialty business, is guilty of a class B misdemeanor.

1155 (3) An individual who knowingly and intentionally uses proof of age containing false  
1156 information with the intent to purchase a cigar, a cigarette, an electronic cigarette product, or  
1157 tobacco in any form, or in gain admittance to any part of the premises of a retail tobacco  
1158 specialty business, is guilty of a class A misdemeanor.

1159 Section 23. Section **76-10-114** is enacted to read:

1160 **76-10-114. Unlawful entrance to a retail tobacco specialty shop and purchase of a**  
1161 **tobacco product.**

1162 (1) As used in this section:

1163 (a) "Compensatory service" means service or unpaid work performed by an employee,  
1164 in lieu of the payment of a fine or imprisonment.

1165 (b) "Employee" means an employee or owner of a retail tobacco specialty business.

1166 (2) Except as provided in Subsection (4), it is unlawful for an employee to knowingly  
1167 or intentionally:

1168 (a) sell or give a cigar, a cigarette, an electronic cigarette product, or tobacco in any  
1169 form in the course of business to an individual who is under 21 years old; or

1170 (b) allow an individual who is under 21 years old to enter a retail tobacco specialty  
1171 shop in the course of business.

1172 (3) An employee who violates this section is:

1173 (a) on a first violation:  
 1174 (i) guilty of a class B misdemeanor; and  
 1175 (ii) subject to:  
 1176 (A) a fine not exceeding \$1,000;  
 1177 (B) a sentence of imprisonment for a term not exceeding six months; or  
 1178 (C) compensatory service;  
 1179 (b) on any subsequent violation:  
 1180 (i) guilty of a class A misdemeanor; and  
 1181 (ii) subject to:  
 1182 (A) a fine not exceeding \$2,500;  
 1183 (B) a sentence of imprisonment for a term not exceeding one year in jail; or  
 1184 (C) compensatory service.  
 1185 (4) (a) It is not unlawful for an employee to allow an individual who is under 21 years  
 1186 old to enter the premises of a retail tobacco specialty business if:  
 1187 (i) the individual is accompanied by a parent or legal guardian who provides proof of  
 1188 age; or  
 1189 (ii) the individual is present at the retail tobacco specialty shop for a bona fide  
 1190 commercial purpose other than to purchase a cigar, a cigarette, an electronic cigarette product,  
 1191 or tobacco in any form.  
 1192 Section 24. Section **77-39-101 (Effective 07/01/20)** is amended to read:  
 1193 **77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco, and**  
 1194 **electronic cigarettes to underage individuals.**  
 1195 (1) As used in this section, [~~"electronic cigarette" is as~~] "electronic cigarette product"  
 1196 means the same as that term is defined in Section 76-10-101.  
 1197 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer  
 1198 Classifications, may investigate the possible violation of:  
 1199 (i) Section **32B-4-403** by requesting an individual under 21 years old to enter into and  
 1200 attempt to purchase or make a purchase of alcohol from a retail establishment; or  
 1201 (ii) Section **76-10-104** or **76-10-114** by requesting an individual under [~~the age~~  
 1202 ~~specified in Subsection (2)(c)] 21 years old to enter into and attempt to purchase or make a  
 1203 purchase from a retail establishment of:~~

- 1204 (A) a cigar;
- 1205 (B) a cigarette;
- 1206 (C) tobacco in any form; or
- 1207 (D) an electronic cigarette product.
- 1208 (b) A peace officer who is present at the site of a proposed purchase shall direct,
- 1209 supervise, and monitor the individual requested to make the purchase.
- 1210 (c) Immediately following a purchase or attempted purchase or as soon as practical the
- 1211 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
- 1212 establishment that the attempted purchaser was under the legal age to purchase:
- 1213 (i) alcohol; or
- 1214 (ii) (A) a cigar;
- 1215 (B) a cigarette;
- 1216 (C) tobacco in any form; or
- 1217 (D) an electronic cigarette product.
- 1218 (d) If a citation or information is issued, [it] the citation or information shall be issued
- 1219 within seven days of the purchase.
- 1220 [~~(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:~~]
- 1221 [~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and~~]
- 1222 [~~(ii) beginning July 1, 2021, 21 years old.~~]
- 1223 (3) (a) If an individual under [~~the age of~~] 18 years old is requested to attempt a
- 1224 purchase, a written consent of that individual's parent or guardian shall be obtained prior to that
- 1225 individual participating in any attempted purchase.
- 1226 (b) An individual requested by the peace officer to attempt a purchase may:
- 1227 (i) be a trained volunteer; or
- 1228 (ii) receive payment, but may not be paid based on the number of successful purchases
- 1229 of alcohol, tobacco, or an electronic cigarette product.
- 1230 (4) The individual requested by the peace officer to attempt a purchase and anyone
- 1231 accompanying the individual attempting a purchase may not during the attempted purchase
- 1232 misrepresent the age of the individual by false or misleading identification documentation in
- 1233 attempting the purchase.
- 1234 (5) An individual requested to attempt to purchase or make a purchase pursuant to this



1235 section is immune from prosecution, suit, or civil liability for the purchase of, attempted  
 1236 purchase of, or possession of alcohol, a cigar, a cigarette, tobacco in any form, or an electronic  
 1237 cigarette product if a peace officer directs, supervises, and monitors the individual.

1238 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section  
 1239 shall be conducted[;] within a 12-month period:

1240 [~~(i) on a random basis; and~~]

1241 [~~(ii) within a 12-month period at any one retail establishment location not more often  
 1242 than:]~~

1243 [~~(A) two times for the attempted purchase of:]~~

1244 [~~(F) a cigar;~~]

1245 [~~(H) a cigarette;~~]

1246 [~~(HH) tobacco in any form; or~~]

1247 [~~(IV) an electronic cigarette; and~~]

1248 [~~(B) four times for the attempted purchase of alcohol:]~~

1249 (i) on a random basis at any one retail establishment location, not more often than four  
 1250 times for the attempted purchase of alcohol; and

1251 (iii) a minimum of two times at a retail establishment that sells cigars, cigarettes,  
 1252 tobacco in any form, or electronic cigarette products, for the attempted purchase of:

1253 (A) a cigar;

1254 (B) a cigarette;

1255 (C) tobacco in any form; or

1256 (D) an electronic cigarette product.

1257 (b) This section does not prohibit an investigation or an attempt to purchase tobacco  
 1258 under this section if:

1259 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a  
 1260 cigar, a cigarette, tobacco in any form, or an electronic cigarette product to an individual under  
 1261 the age established by Section [32B-4-403](#) or [76-10-104](#); and

1262 (ii) the supervising peace officer makes a written record of the grounds for the  
 1263 reasonable suspicion.

1264 (7) (a) The peace officer exercising direction, supervision, and monitoring of the  
 1265 attempted purchase shall make a report of the attempted purchase, whether or not a purchase

1266 was made.

1267 (b) The report required by this Subsection (7) shall include:

1268 (i) the name of the supervising peace officer;

1269 (ii) the name of the individual attempting the purchase;

1270 (iii) a photograph of the individual attempting the purchase showing how that  
1271 individual appeared at the time of the attempted purchase;

1272 (iv) the name and description of the cashier or proprietor from whom the individual  
1273 attempted the purchase;

1274 (v) the name and address of the retail establishment; and

1275 (vi) the date and time of the attempted purchase.

1276 Section 25. **Effective date.**

1277 This bill takes effect on July 1, 2020.