

**ELECTRONIC CIGARETTES IN SCHOOLS AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Susan Pulsipher**

Senate Sponsor: \_\_\_\_\_

**LONG TITLE**

**Committee Note:**

The Education Interim Committee recommended this bill.

Legislative Vote: 14 voting for 0 voting against 5 absent

**General Description:**

This bill addresses student use of alcohol, tobacco, electronic cigarette products, and other substances through education and prevention programs and discipline policies.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends provisions relating to the offense of underage purchase and possession of electronic cigarette products;
- ▶ requires local school boards to adopt discipline policies to address possession and use of electronic cigarette products on school grounds;
- ▶ renames the Underage Drinking Prevention Program the Underage Drinking and Substance Abuse Prevention Program;
- ▶ adds a requirement to teach a school-based prevention program for students in grade 4 or 5;
- ▶ adds a requirement to include education about the risks of electronic cigarette products in a school-based prevention program;
- ▶ requires schools to create a plan to address the causes of student use of tobacco,



- 28 alcohol, electronic cigarette products, and controlled substances;
- 29       ▶ creates a stipend for a specialist to administer the plan; and
- 30       ▶ requires the state board to establish a library of best practices.

31 **Money Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       This bill provides a special effective date.

35 **Utah Code Sections Affected:**

36 AMENDS:

- 37       **53F-9-304**, as last amended by Laws of Utah 2019, Chapter 186
- 38       **53G-1-103**, as enacted by Laws of Utah 2018, Chapter 3
- 39       **53G-7-1202**, as last amended by Laws of Utah 2019, Chapters 150, 293, and 505
- 40       **53G-7-1205**, as last amended by Laws of Utah 2019, Chapters 150, 167, and 293
- 41       **53G-8-203**, as last amended by Laws of Utah 2019, Chapters 293 and 446
- 42       **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293
- 43       **53G-8-505**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 44       **53G-8-508**, as last amended by Laws of Utah 2019, Chapter 293
- 45       **53G-10-405**, as last amended by Laws of Utah 2019, Chapter 293
- 46       **53G-10-406**, as last amended by Laws of Utah 2019, Chapter 293
- 47       **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended
- 48 by Coordination Clause, Laws of Utah 2015, Chapter 132
- 49       **76-10-105 (Superseded 07/01/20)**, as last amended by Laws of Utah 2018, Chapter 415
- 50       **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

51 ENACTS:

52       **53G-10-407**, Utah Code Annotated 1953

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

55       Section 1. Section **53F-9-304** is amended to read:

56       **53F-9-304. Underage Drinking and Substance Abuse Prevention Program**

57 **Restricted Account.**

58       (1) As used in this section, "account" means the Underage Drinking and Substance

59 Abuse Prevention Program Restricted Account created in this section.

60 (2) There is created within the Education Fund a restricted account known as the  
61 "Underage Drinking and Substance Abuse Prevention Program Restricted Account."

62 (3) (a) Before the Department of Alcoholic Beverage Control deposits any portion of  
63 the markup collected under Section 32B-2-304 into the Liquor Control Fund in accordance  
64 with Section 32B-2-301, the Department of Alcoholic Beverage Control shall deposit into the  
65 account:

66 (i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

67 (ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the  
68 amount that the Department of Alcoholic Beverage Control deposited into the account during  
69 the preceding fiscal year increased or decreased by a percentage equal to the percentage  
70 difference between the Consumer Price Index for the second preceding calendar year and the  
71 Consumer Price Index for the preceding calendar year.

72 (b) For purposes of this Subsection (3), the Department of Alcoholic Beverage Control  
73 shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and  
74 1(f)(5).

75 (4) The account shall be funded:

76 (a) in accordance with Subsection (3);

77 (b) by appropriations made to the account by the Legislature; and

78 (c) by interest earned on money in the account.

79 (5) The state board shall use money in the account for the Underage Drinking and  
80 Substance Abuse Prevention Program described in Section 53G-10-406.

81 Section 2. Section 53G-1-103 is amended to read:

82 **53G-1-103. Definitions.**

83 [Reserved]

84 As used in this title:

85 (1) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

86 (2) "Electronic cigarette product" means an electronic cigarette or a prefilled electronic  
87 cigarette.

88 (3) "Prefilled electronic cigarette" means the same as that term is defined in Section  
89 76-10-101.

90 Section 3. Section 53G-7-1202 is amended to read:

91 **53G-7-1202. School community councils -- Duties -- Composition -- Election**  
92 **procedures and selection of members.**

93 (1) As used in this section:

94 (a) "Digital citizenship" means the norms of appropriate, responsible, and healthy  
95 behavior related to technology use, including digital literacy, ethics, etiquette, and security.

96 (b) "Educator" means the same as that term is defined in Section 53E-6-102.

97 (c) (i) "Parent member" means a member of a school community council who is a  
98 parent of a student who:

99 (A) is attending the school; or

100 (B) will be enrolled at the school during the parent's term of office.

101 (ii) "Parent member" may not include an educator who is employed at the school.

102 (d) "Safety principles" means safety principles that, when incorporated into programs  
103 and resources, impact academic achievement by strengthening a safe and wholesome learning  
104 environment, including continual efforts for safe technology utilization and digital citizenship.

105 (e) "School community council" means a council established at a district school in  
106 accordance with this section.

107 (f) "School employee member" means a member of a school community council who is  
108 a person employed at the school by the school or school district, including the principal.

109 (g) "School LAND Trust Program money" means money allocated to a school pursuant  
110 to Section 53F-2-404.

111 (2) A district school, in consultation with the district school's local school board, shall  
112 establish a school community council at the school building level for the purpose of:

113 (a) involving parents of students in decision making at the school level;

114 (b) improving the education of students;

115 (c) prudently expending School LAND Trust Program money for the improvement of  
116 students' education through collaboration among parents, school employees, and the local  
117 school board; and

118 (d) increasing public awareness of:

119 (i) school trust lands and related land policies;

120 (ii) management of the State School Fund established in Utah Constitution Article X,

121 Section V; and  
122 (iii) educational excellence.  
123 (3) (a) Except as provided in Subsection (3)(b), a school community council shall:  
124 (i) create the School LAND Trust Program and LAND Trust plan in accordance with  
125 Section 53G-7-1206;  
126 (ii) advise and make recommendations to school and school district administrators and  
127 the local school board regarding:  
128 (A) the school and its programs;  
129 (B) school district programs;  
130 (C) a child access routing plan in accordance with Section 53G-4-402;  
131 (D) safe technology utilization and digital citizenship; and  
132 (E) other issues relating to the community environment for students;  
133 (iii) provide for education and awareness on safe technology utilization and digital  
134 citizenship that empowers:  
135 (A) a student to make smart media and online choices; and  
136 (B) a parent to know how to discuss safe technology use with the parent's child;  
137 (iv) partner with the school's principal and other administrators to ensure that adequate  
138 on and off campus Internet filtering is installed and consistently configured to prevent viewing  
139 of harmful content by students and school personnel, in accordance with local school board  
140 policy and Subsection 53G-7-216(3); ~~and~~  
141 (v) in accordance with state board rule regarding school community council  
142 expenditures and funding limits:  
143 (A) work with students, families, and educators to develop and incorporate safety  
144 principles at the school; and  
145 (B) hold at least an annual discussion with the school's principal and district  
146 administrators regarding safety principles at the school and district level in order to coordinate  
147 the school community council's effort to develop and incorporate safety principles at the  
148 school[-]; and  
149 (vi) provide input to the school's principal on a positive behaviors plan in accordance  
150 with Section 53G-10-407.  
151 (b) To fulfill the school community council's duties described in Subsections (3)(a)(iii)

152 and (iv), a school community council may:

153 (i) partner with one or more non-profit organizations; or

154 (ii) create a subcommittee.

155 (c) A school or school district administrator may not prohibit or discourage a school  
156 community council from discussing issues, or offering advice or recommendations, regarding  
157 the school and its programs, school district programs, the curriculum, or the community  
158 environment for students.

159 (4) (a) Each school community council shall consist of school employee members and  
160 parent members in accordance with this section.

161 (b) Except as provided in Subsection (4)(c) or (d):

162 (i) each school community council for a high school shall have six parent members and  
163 four school employee members, including the principal; and

164 (ii) each school community council for a school other than a high school shall have  
165 four parent members and two school employee members, including the principal.

166 (c) A school community council may determine the size of the school community  
167 council by a majority vote of a quorum of the school community council provided that:

168 (i) the membership includes two or more parent members than the number of school  
169 employee members; and

170 (ii) there are at least two school employee members on the school community council.

171 (d) (i) The number of parent members of a school community council who are not  
172 educators employed by the school district shall exceed the number of parent members who are  
173 educators employed by the school district.

174 (ii) If, after an election, the number of parent members who are not educators employed  
175 by the school district does not exceed the number of parent members who are educators  
176 employed by the school district, the parent members of the school community council shall  
177 appoint one or more parent members to the school community council so that the number of  
178 parent members who are not educators employed by the school district exceeds the number of  
179 parent members who are educators employed by the school district.

180 (5) (a) Except as provided in Subsection (5)(f), a school employee member, other than  
181 the principal, shall be elected by secret ballot by a majority vote of the school employees and  
182 serve a two-year term. The principal shall serve as an ex officio member with full voting

183 privileges.

184 (b) (i) Except as provided in Subsection (5)(f), a parent member shall be elected by  
185 secret ballot at an election held at the school by a majority vote of those voting at the election  
186 and serve a two-year term.

187 (ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent of a student  
188 attending the school may vote in, or run as a candidate in, the election under Subsection  
189 (5)(b)(i).

190 (B) If an election is held in the spring, a parent of a student who will be attending the  
191 school the following school year may vote in, and run as a candidate in, the election under  
192 Subsection (5)(b)(i).

193 (iii) Any parent of a student who meets the qualifications of this section may file or  
194 declare the parent's candidacy for election to a school community council.

195 (iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the  
196 election of parent members of a school community council shall be established by a local  
197 school board for the schools within the school district.

198 (B) An election for the parent members of a school community council shall be held  
199 near the beginning of the school year or held in the spring and completed before the last week  
200 of school.

201 (C) Each school shall establish a time period for the election of parent members of a  
202 school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a  
203 four-year period.

204 (c) (i) At least 10 days before the date that voting commences for the elections held  
205 under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee,  
206 shall provide notice to each school employee or parent of the opportunity to vote in, and run as  
207 a candidate in, an election under this Subsection (5).

208 (ii) The notice shall include:

209 (A) the dates and times of the elections;

210 (B) a list of council positions that are up for election; and

211 (C) instructions for becoming a candidate for a community council position.

212 (iii) The principal of the school, or the principal's designee, shall oversee the elections  
213 held under Subsections (5)(a) and (5)(b).

214 (iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a  
215 secure ballot box.

216 (d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made  
217 available to the public upon request.

218 (e) (i) If a parent position on a school community council remains unfilled after an  
219 election is held, the other parent members of the council shall appoint a parent who meets the  
220 qualifications of this section to fill the position.

221 (ii) If a school employee position on a school community council remains unfilled after  
222 an election is held, the other school employee members of the council shall appoint a school  
223 employee to fill the position.

224 (iii) A member appointed to a school community council under Subsection (5)(e)(i) or  
225 (ii) shall serve a two-year term.

226 (f) (i) If the number of candidates who file for a parent position or school employee  
227 position on a school community council is less than or equal to the number of open positions,  
228 an election is not required.

229 (ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent position  
230 remains unfilled, the other parent members of the council shall appoint a parent who meets the  
231 qualifications of this section to fill the position.

232 (iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee  
233 position remains unfilled, the other school employee members of the council shall appoint a  
234 school employee who meets the qualifications of this section to fill the position.

235 (g) The principal shall enter the names of the council members on the School LAND  
236 Trust website on or before October 20 of each year, pursuant to Section [53G-7-1203](#).

237 (h) Terms shall be staggered so that approximately half of the council members stand  
238 for election each year.

239 (i) A school community council member may serve successive terms provided the  
240 member continues to meet the definition of a parent member or school employee member as  
241 specified in Subsection (1).

242 (j) Each school community council shall elect:

243 (i) a chair from its parent members; and

244 (ii) a vice chair from either its parent members or school employee members,



245 excluding the principal.

246 (6) (a) A school community council may create subcommittees or task forces to:

247 (i) advise or make recommendations to the council; or

248 (ii) develop all or part of a plan listed in Subsection (3).

249 (b) Any plan or part of a plan developed by a subcommittee or task force shall be  
250 subject to the approval of the school community council.

251 (c) A school community council may appoint individuals who are not council members  
252 to serve on a subcommittee or task force, including parents, school employees, or other  
253 community members.

254 (7) (a) A majority of the members of a school community council is a quorum for the  
255 transaction of business.

256 (b) The action of a majority of the members of a quorum is the action of the school  
257 community council.

258 (8) A local school board shall provide training for a school community council each  
259 year, including training:

260 (a) for the chair and vice chair about their responsibilities;

261 (b) on resources available on the School LAND Trust website; and

262 (c) on this part.

263 Section 4. Section **53G-7-1205** is amended to read:

264 **53G-7-1205. Charter trust land councils.**

265 (1) As used in this section, "council" means a charter trust land council described in  
266 this section.

267 (2) To receive School LAND Trust Program funding as described in Sections  
268 [53F-2-404](#) and [53G-7-1206](#), a charter school governing board shall establish a charter trust  
269 land council, which shall prepare a plan for the use of School LAND Trust Program money that  
270 includes the elements described in Subsection [53G-7-1206\(4\)](#).

271 (3) (a) The membership of the council shall include parents or grandparents of students  
272 enrolled at the charter school and may include other members.

273 (b) The number of council members who are parents or grandparents of students  
274 enrolled at the charter school shall exceed all other members combined by at least two.

275 (4) A charter school governing board may serve as the charter school's council if the

276 membership of the charter school governing board meets the requirements of Subsection (3)(b).

277 (5) (a) Except as provided in Subsection (5)(b), council members who are parents or  
278 grandparents of students enrolled at the school shall be elected in accordance with procedures  
279 established by the charter school governing board.

280 (b) Subsection (5)(a) does not apply to a charter school governing board that serves as  
281 a council.

282 (6) A parent or grandparents of a student enrolled at a charter school shall serve as  
283 chair or co-chair of the charter school's council.

284 (7) In accordance with state board rule regarding charter trust land council  
285 expenditures and funding limits, a charter trust land council shall:

286 (a) work with students, families, and educators to develop and incorporate safety  
287 principles, as defined in Section [53G-7-1202](#), at the school; and

288 (b) hold at least an annual discussion with charter school administrators to coordinate  
289 efforts to develop and incorporate safety principles, as defined in Section [53G-7-1202](#), at the  
290 school level.

291 (8) A charter trust land council shall provide input to the school's principal on a  
292 positive behaviors plan in accordance with Section [53G-10-407](#).

293 Section 5. Section **53G-8-203** is amended to read:

294 **53G-8-203. Conduct and discipline policies and procedures.**

295 (1) The conduct and discipline policies required under Section [53G-8-202](#) shall  
296 include:

297 (a) provisions governing student conduct, safety, and welfare;

298 (b) standards and procedures for dealing with students who cause disruption in the  
299 classroom, on school grounds, on school vehicles, or in connection with school-related  
300 activities or events;

301 (c) procedures for the development of remedial discipline plans for students who cause  
302 a disruption at any of the places referred to in Subsection (1)(b);

303 (d) procedures for the use of reasonable and necessary physical restraint in dealing with  
304 students posing a danger to themselves or others, consistent with Section [53G-8-302](#);

305 (e) standards and procedures for dealing with student conduct in locations other than  
306 those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

- 307 (i) the school;
- 308 (ii) school property;
- 309 (iii) a person associated with the school; or
- 310 (iv) property associated with a person described in Subsection (1)(e)(iii);
- 311 (f) procedures for the imposition of disciplinary sanctions, including suspension and
- 312 expulsion;
- 313 (g) specific provisions, consistent with Section 53E-3-509, for preventing and
- 314 responding to gang-related activities in the school, on school grounds, on school vehicles, or in
- 315 connection with school-related activities or events;
- 316 (h) standards and procedures for dealing with habitual disruptive or unsafe student
- 317 behavior in accordance with the provisions of this part; and
- 318 (i) procedures for responding to reports received through the SafeUT Crisis Line under
- 319 Subsection 53B-17-1202(3).
- 320 (2) (a) Each local school board shall establish a policy on detaining students after
- 321 regular school hours as a part of the district-wide discipline plan required under Section
- 322 53G-8-202.
- 323 (b) (i) The policy described in Subsection (2)(a) shall apply to elementary school
- 324 students, grades kindergarten through 6.
- 325 (ii) The local school board shall receive input from teachers, school administrators, and
- 326 parents of the affected students before adopting the policy.
- 327 (c) The policy described in Subsection (2)(a) shall provide for:
- 328 (i) notice to the parent of a student prior to holding the student after school on a
- 329 particular day; and
- 330 (ii) exceptions to the notice provision if detention is necessary for the student's health
- 331 or safety.
- 332 (3) (a) Each LEA shall adopt a policy for responding to possession or use of electronic
- 333 cigarette products by a student on school property.
- 334 (b) The policy described in Subsection (3)(a) shall:
- 335 (i) prohibit students from possessing or using electronic cigarette products on school
- 336 property;
- 337 (ii) include policies or procedures for the confiscation of electronic cigarette products;

338 and

339 (iii) require school personnel to dispose of or destroy a confiscated electronic cigarette  
340 product.

341 (c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic  
342 cigarette product to local law enforcement if:

343 (i) a school official has a reasonable suspicion that a confiscated electronic cigarette  
344 product contains an illegal substance; and

345 (ii) local law enforcement requests that the LEA release the confiscated electronic  
346 cigarette product to local law enforcement as part of an investigation or action.

347 Section 6. Section **53G-8-209** is amended to read:

348 **53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of**  
349 **violations -- Limitation of liability.**

350 (1) The Legislature recognizes that:

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

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

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

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

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

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

369 staff.

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

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

376 (ii) illicit use, possession, or distribution of controlled substances or drug  
377 paraphernalia, and the use, possession, or distribution of an electronic cigarette [~~as defined in~~  
378 ~~Section 76-10-101~~] product, tobacco, or alcoholic beverages contrary to law; and

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

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

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

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

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

392 Section 7. Section 53G-8-505 is amended to read:

393 **53G-8-505. Definitions.**

394 For purposes of Sections 53G-8-506 through 53G-8-509:

395 (1) The definitions in Sections 58-37-2, 58-37a-3, and 58-37b-2 apply to Sections  
396 53G-8-506 through 53G-8-509.

397 (2) "Prohibited act" means:

398 (a) an act punishable under Section 53G-8-602, Section 58-37-8, Section 58-37a-5, or  
399 Title 58, Chapter 37b, Imitation Controlled Substances Act[-]; or

400 (b) possession of an electronic cigarette product by a student on school property.

401 (3) "School" means a public or private elementary or secondary school.

402 Section 8. Section **53G-8-508** is amended to read:

403 **53G-8-508. Admissibility of evidence in civil and criminal actions.**

404 (1) Evidence relating to a violation of Section **53G-8-505**, **53G-8-506**, **53G-8-507**, or  
405 **53G-8-509**, which is seized by school authorities acting alone, on their own authority, and not  
406 in conjunction with or at the behest of law enforcement authorities is admissible in civil and  
407 criminal actions.

408 (2) An LEA shall dispose of or destroy seized electronic cigarette products in  
409 accordance with the LEA's policies adopted under Subsection **53G-8-203**(3).

410 ~~[(2)]~~ (3) A search under this section must be based on at least a reasonable belief that  
411 the search will turn up evidence of a violation of this part. The measures adopted for the search  
412 must be reasonably related to the objectives of the search and not excessively intrusive in light  
413 of the circumstances, including the age and sex of the person involved and the nature of the  
414 infraction.

415 Section 9. Section **53G-10-405** is amended to read:

416 **53G-10-405. Instruction on the harmful effects of alcohol, tobacco, electronic**  
417 **cigarette products, and controlled substances -- Rulemaking authority -- Assistance from**  
418 **the Division of Substance Abuse and Mental Health.**

419 (1) The state board shall adopt rules providing for instruction at each grade level on the  
420 harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances  
421 upon the human body and society. The rules shall require ~~[but are not limited to]~~ instruction on  
422 the following:

423 (a) teaching of skills needed to evaluate advertisements for, and media portrayal of,  
424 alcohol, tobacco, electronic cigarette products, and controlled substances;

425 (b) directing students towards healthy and productive alternatives to the use of alcohol,  
426 tobacco, electronic cigarette products, and controlled substances; and

427 (c) discouraging the use of alcohol, tobacco, electronic cigarette products, and  
428 controlled substances.

429 (2) At the request of the state board, the Division of Substance Abuse and Mental  
430 Health shall cooperate with the state board in developing programs to provide this instruction.

431 (3) The state board shall participate in efforts to enhance communication among  
432 community organizations and state agencies, and shall cooperate with those entities in efforts  
433 which are compatible with the purposes of this section.

434 (4) The state board shall establish a library of documented best practices and resources  
435 for alcohol, tobacco, and electronic cigarette product cessation interventions for use by local  
436 school districts.

437 Section 10. Section **53G-10-406** is amended to read:

438 **53G-10-406. Underage Drinking and Substance Abuse Prevention Program --**  
439 **State board rules.**

440 (1) As used in this section:

441 (a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention  
442 Program Advisory Council created in this section.

443 (b) "Program" means the Underage Drinking and Substance Abuse Prevention Program  
444 created in this section.

445 (c) "School-based prevention program" means an evidence-based program [~~intended~~  
446 ~~for students aged 13 and older~~] that:

447 (i) is aimed at preventing underage consumption of alcohol and underage use of  
448 electronic cigarette products;

449 (ii) is delivered by methods that engage students in storytelling and visualization;

450 (iii) addresses the behavioral risk factors associated with underage drinking and use of  
451 electronic cigarette products; and

452 (iv) provides practical tools to address the dangers of underage drinking and use of  
453 electronic cigarette products.

454 (2) There is created the Underage Drinking and Substance Abuse Prevention Program  
455 that consists of:

456 (a) a school-based prevention program for students in grade 4 or 5;

457 [~~(a)~~] (b) a school-based prevention program for students in grade 7 or 8; and

458 [~~(b)~~] (c) a school-based prevention program for students in grade 9 or 10 that increases  
459 awareness of the dangers of driving under the influence of alcohol.

460 (3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each  
461 school year to each student in grade 7 or 8 and grade 9 or 10.

462           **(b)** In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA  
463 shall offer the program each school year to each student in grade 4 or 5.

464           ~~[(b)]~~ **(c)** An LEA shall select from the providers qualified by the state board under  
465 Subsection (6) to offer the program.

466           (4) The state board shall administer the program with input from the advisory council.

467           (5) There is created the Underage Drinking and Substance Abuse Prevention Program  
468 Advisory Council comprised of the following members:

469           (a) the executive director of the Department of Alcoholic Beverage Control or the  
470 executive director's designee;

471           (b) the executive director of the Department of Health or the executive director's  
472 designee;

473           (c) the director of the Division of Substance Abuse and Mental Health or the director's  
474 designee;

475           (d) the director of the Division of Child and Family Services or the director's designee;

476           (e) the director of the Division of Juvenile Justice Services or the director's designee;

477           (f) the state superintendent or the state superintendent's designee; and

478           (g) two members of the state board, appointed by the chair of the state board.

479           (6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state  
480 board shall qualify one or more providers to provide the program to an LEA.

481           (b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

482           (i) whether the provider's program complies with the requirements described in this  
483 section;

484           (ii) the extent to which the provider's [~~underage drinking~~] prevention program aligns  
485 with core standards for Utah public schools; and

486           (iii) the provider's experience in providing a program that is effective[~~at reducing~~  
487 ~~underage drinking~~].

488           (7) (a) The state board shall use money from the Underage Drinking and Substance  
489 Abuse Prevention Program Restricted Account described in Section [53F-9-304](#) for the  
490 program.

491           (b) The state board may use money from the Underage Drinking Prevention Program  
492 Restricted Account to fund up to .5 of a full-time equivalent position to administer the



493 program.

494 (8) The state board shall make rules that:

495 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage  
496 Drinking and Substance Abuse Prevention Program each school year to each student in grade 7  
497 or 8 and grade 9 or 10; [~~and~~]

498 (b) beginning with the 2020-21 school year, require an LEA to offer the Underage  
499 Drinking and Substance Abuse Prevention Program each school year to each student in grade 4  
500 or 5; and

501 [~~(b)~~] (c) establish criteria for the state board to use in selecting a provider described in  
502 Subsection (6).

503 Section 11. Section **53G-10-407** is enacted to read:

504 **53G-10-407. Positive behaviors plan -- Positive behaviors specialist stipend --**

505 **Reports.**

506 (1) As used in this section:

507 (a) "Positive behaviors plan" means a plan to address the causes of student use of  
508 tobacco, alcohol, electronic cigarette products, and other controlled substances through  
509 promoting positive behaviors.

510 (b) "Positive behaviors specialist" means an individual designated to administer a  
511 positive behaviors plan.

512 (2) (a) A school principal shall:

513 (i) create a positive behaviors plan based on the input of students, parents, and staff;  
514 and

515 (ii) submit the positive behaviors plan to the LEA governing board for approval.

516 (b) A positive behaviors plan shall address issues including peer pressure, mental  
517 health, and creating meaningful relationships.

518 (c) A positive behaviors plan may include programs, clubs, service opportunities, and  
519 pro-social activities.

520 (3) Each LEA shall designate one or more employees as a positive behaviors specialist  
521 for each school to administer the positive behaviors plan.

522 (4) (a) The state board shall distribute annually to each school:

523 (i) \$3,000 as a stipend for the positive behaviors specialists; and

- 524 (ii) \$1,000 to administer the positive behaviors plan.
- 525 (b) Notwithstanding Subsection (4)(a), if funding is insufficient to cover the costs
- 526 associated with stipends, the state board may reduce the amount of the stipend.
- 527 (5) (a) A positive behaviors specialist shall annually submit a written report to the LEA
- 528 governing board detailing how the positive behaviors plan was implemented in the prior year.
- 529 (b) An LEA governing board shall submit an annual report to the state board
- 530 confirming that each school under the governing board's jurisdiction has an approved positive
- 531 behaviors plan.

532 Section 12. Section **76-10-101** is amended to read:

533 **76-10-101. Definitions.**

534 As used in this part:

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

539 (2) "Cigarette" means a product that contains nicotine, is intended to be burned under  
540 ordinary conditions of use, and consists of:

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

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

545 (3) "Electronic cigarette" means an electronic cigarette product, as defined in Section  
546 [59-14-802](#).

547 (4) "Place of business" includes:

548 (a) a shop;

549 (b) a store;

550 (c) a factory;

551 (d) a public garage;

552 (e) an office;

553 (f) a theater;

554 (g) a recreation hall;

- 555 (h) a dance hall;
- 556 (i) a poolroom;
- 557 (j) a café;
- 558 (k) a cafeteria;
- 559 (l) a cabaret;
- 560 (m) a restaurant;
- 561 (n) a hotel;
- 562 (o) a lodging house;
- 563 (p) a streetcar;
- 564 (q) a bus;
- 565 (r) an interurban or railway passenger coach;
- 566 (s) a waiting room; and
- 567 (t) any other place of business.

568 (5) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled  
 569 with an electronic cigarette substance.

570 [~~(5)~~] (6) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other  
 571 lighted smoking equipment.

572 Section 13. Section **76-10-105 (Superseded 07/01/20)** is amended to read:

573 **76-10-105 (Superseded 07/01/20). Buying or possessing a cigar, cigarette,**  
 574 **electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority --**  
 575 **Juvenile court jurisdiction.**

576 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's  
 577 possession any cigar, cigarette, electronic cigarette, prefilled electronic cigarette, or tobacco in  
 578 any form is guilty of a class C misdemeanor and subject to:

- 579 (a) a minimum fine or penalty of \$60; and
- 580 (b) participation in a court-approved tobacco education program, which may include a  
 581 participation fee.

582 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the  
 583 person's possession any cigar, cigarette, electronic cigarette, prefilled electronic cigarette, or  
 584 tobacco in any form is subject to the jurisdiction of the juvenile court and subject to Section  
 585 [78A-6-602](#), unless the violation is committed on school property. If a violation under this

586 section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

587 (a) a fine or penalty, in accordance with Section 78A-6-117; and

588 (b) participation in a court-approved tobacco education program, which may include a  
589 participation fee.

590 (3) A compliance officer appointed by a board of education under Section 53G-4-402  
591 may not issue a citation for a violation of this section committed on school property. A cited  
592 violation committed on school property shall be addressed in accordance with Section  
593 53G-8-211.

594 Section 14. Section 76-10-105 (Effective 07/01/20) is amended to read:

595 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, cigarette, electronic**  
596 **cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority -- Juvenile**  
597 **court jurisdiction.**

598 (1) (a) An individual who is 18 years or older, but younger than the age specified in  
599 Subsection (1)(b), and buys or attempts to buy, accepts, or has in the individual's possession  
600 any cigar, cigarette, electronic cigarette, prefilled electronic cigarette, or tobacco in any form is  
601 guilty of an infraction and subject to:

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

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

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

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

607 (ii) beginning July 1, 2021, 21 years old.

608 (2) An individual under the age of 18 who buys or attempts to buy, accepts, or has in  
609 the individual's possession any cigar, cigarette, electronic cigarette, prefilled electronic  
610 cigarette, or tobacco in any form is subject to the jurisdiction of the juvenile court and subject  
611 to Section 78A-6-602, unless the violation is committed on school property. If a violation  
612 under this section is adjudicated under Section 78A-6-117, the minor may be subject to the  
613 following:

614 (a) a fine or penalty, in accordance with Section 78A-6-117; and

615 (b) participation in a court-approved tobacco education program, which may include a  
616 participation fee.

617 (3) A compliance officer appointed by a board of education under Section [53G-4-402](#)  
618 may not issue a citation for a violation of this section committed on school property. A cited  
619 violation committed on school property shall be addressed in accordance with Section  
620 [53G-8-211](#).

621 (4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,  
622 electronic cigarette, prefilled electronic cigarette, tobacco, or tobacco paraphernalia by an  
623 individual who is 18 years or older and is:

624 (i) on active duty in the United States Armed Forces; or

625 (ii) a spouse or dependent of an individual who is on active duty in the United States  
626 Armed Forces.

627 (b) A valid, government-issued military identification card is required to verify proof  
628 of age under Subsection (4)(a).

629 Section 15. **Effective date.**

630 (1) Except as provided in Subsections (2) and (3), if approved by two-thirds of all the  
631 members elected to each house, this bill takes effect upon approval of the governor, or the day  
632 following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the  
633 governor's signature, or in the case of a veto, the date of veto override.

634 (2) The following sections take effect on May 12, 2020:

635 (a) the amendments to Sections [53F-9-304](#), [53G-7-1202](#), [53G-7-1205](#), [53G-10-405](#),  
636 and [53G-10-406](#); and

637 (b) the enactment of Section [53G-10-407](#).

638 (3) The amendments to Section [76-10-105](#) (Effective 07/01/20) take effect on July 1,  
639 2020.