

HB0432S01

inserted text shows text that was not in HB0432S01 but was inserted into HB0432S02

1 **Tobacco and Electronic Cigarette Modifications**
 2025 GENERAL SESSION
 STATE OF UTAH
 Chief Sponsor: Matt MacPherson
 Senate Sponsor:

General Description:

Highlighted Provisions:

- ▶ { ~~repeals the ban on flavored electronic cigarette products;~~ }
- ▶ { ~~repeals the nicotine content limit for electronic cigarette products;~~ }
- ▶ amends provisions related to electronic cigarette product { enforcement } searches;
- ▶ { ~~repeals the requirement that electronic cigarette products obtain premarket authorization in the federal Food and Drug Administration;~~ }
- ▶ { ~~requires tracking of electronic cigarette products;~~ }
- ▶ creates { ~~penalties for general~~ } repeal dates with legislative review for certain provisions related retail tobacco specialty businesses { ~~that sell flavored~~ } and electronic cigarette { products } sales;
- ▶ { ~~for retail tobacco specialty businesses:~~ }
 - { ~~raises licensing fees;~~ }
 - { ~~creates identification scanning requirements; and~~ }

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- 19 • {creates surveillance footage requirements;}
- 20 ▸ {creates a tobacco handling permit for retail tobacco specialty business employees and
- 22 operators;}
- 22 ▸ {creates a tax on flavored electronic cigarette products; and}
- 23 ▸ {amends criminal penalties regarding the illegal sale of tobacco and electronic cigarette
- 23 products.}
- 11 ▸ includes a coordination clause with H.B. 21, Criminal Code Recodification and Cross
- 11 References, to ensure the policy changes made in this bill are accurately reflected if both bills
- 11 pass; and
- 14 ▸ includes a coordination clause with S.B. 46, Youth Electronic Cigarette, Marijuana, and
- 14 Other Drug Prevention Program Sunset Extension, to update a cross-reference.

16 Money Appropriated in this Bill:

17 None

18 Other Special Clauses:

19 This bill provides a special effective date.

20 This bill provides coordination clauses.

22 AMENDS:

- 23 **10-8-41.6 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024, Chapter
- 23 470 (Effective upon governor's approval), as last amended by Laws of Utah 2024, Chapter 470
- 25 **17-50-333 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024, Chapter
- 25 470 (Effective upon governor's approval), as last amended by Laws of Utah 2024, Chapter 470
- 27 **26A-1-131 (Effective upon governor's approval), as enacted by Laws of Utah 2024, Chapter**
- 27 **470 (Effective upon governor's approval), as enacted by Laws of Utah 2024, Chapter 470**
- 35 ~~{26B-7-501 (Effective upon governor's approval), as renumbered and amended by Laws of~~
- 35 ~~Utah 2023, Chapter 308 (Effective upon governor's approval), as renumbered and amended~~
- 35 ~~by Laws of Utah 2023, Chapter 308}~~
- 37 ~~{26B-7-505 (Effective 07/01/24), as last amended by Laws of Utah 2024, Chapter~~
- 37 ~~470 (Effective 07/01/24), as last amended by Laws of Utah 2024, Chapter 470}~~
- 38 ~~{26B-7-509 (Effective upon governor's approval), as renumbered and amended by Laws of~~
- 38 ~~Utah 2023, Chapter 308 (Effective upon governor's approval), as renumbered and amended~~
- 38 ~~by Laws of Utah 2023, Chapter 308}~~

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- 40 ~~{26B-7-511 (Effective upon governor's approval), as renumbered and amended by Laws of~~
~~Utah 2023, Chapter 308 (Effective upon governor's approval), as renumbered and amended~~
~~by Laws of Utah 2023, Chapter 308}~~
- 42 ~~{26B-7-518 (Effective upon governor's approval), as renumbered and amended by Laws of~~
~~Utah 2023, Chapter 308 (Effective upon governor's approval), as renumbered and amended~~
~~by Laws of Utah 2023, Chapter 308}~~
- 44 ~~{26B-7-521 (Effective upon governor's approval), as renumbered and amended by Laws of~~
~~Utah 2023, Chapter 308 (Effective upon governor's approval), as renumbered and amended~~
~~by Laws of Utah 2023, Chapter 308}~~
- 46 ~~{59-14-102 (Effective upon governor's approval), as last amended by Laws of Utah 2022,~~
~~Chapter 199 (Effective upon governor's approval), as last amended by Laws of Utah 2022,~~
~~Chapter 199}~~
- 48 ~~{59-14-807 [(Effective 07/01/24)] (Effective upon governor's approval), as last amended~~
~~by Laws of Utah 2024, Chapter 470 [(Effective 07/01/24)] (Effective upon governor's~~
~~approval), as last amended by Laws of Utah 2024, Chapter 470}~~
- 29 **59-14-810 [(Effective 07/01/24)] (Effective upon governor's approval), as enacted by Laws**
of Utah 2024, Chapter 470 [(Effective 07/01/24)] (Effective upon governor's approval), as
enacted by Laws of Utah 2024, Chapter 470
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- 31 **63I-1-210 (Effective upon governor's approval), as last amended by Laws of Utah 2024,**
Third Special Session, Chapter 5 (Effective upon governor's approval), as last amended by
Laws of Utah 2024, Third Special Session, Chapter 5
-
- 33 **63I-1-217 (Effective upon governor's approval) (Superseded 07/01/25), as last amended**
by Laws of Utah 2024, Third Special Session, Chapter 5 (Effective upon governor's
approval) (Superseded 07/01/25), as last amended by Laws of Utah 2024, Third Special
Session, Chapter 5
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- 35 **63I-1-217 (Effective 07/01/25), as last amended by Laws of Utah 2024, Third Special**
Session, Chapter 5 (Effective 07/01/25), as last amended by Laws of Utah 2024, Third
Special Session, Chapter 5
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- 37 **63I-1-226 (Effective upon governor's approval), as last amended by Laws of Utah 2024,**
Third Special Session, Chapter 5 (Effective upon governor's approval), as last amended by
Laws of Utah 2024, Third Special Session, Chapter 5
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- 39 **63I-1-259 (Effective upon governor's approval), as last amended by Laws of Utah 2024,**
Third Special Session, Chapter 5 (Effective upon governor's approval), as last amended by
Laws of Utah 2024, Third Special Session, Chapter 5
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- 41 **63I-1-276 (Effective upon governor's approval), as last amended by Laws of Utah 2024,**
Third Special Session, Chapter 5 (Effective upon governor's approval), as last amended by
Laws of Utah 2024, Third Special Session, Chapter 5
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- 50 ~~{76-10-101 (Effective upon governor's approval), as last amended by Laws of Utah 2024,~~
~~Chapter 470 (Effective upon governor's approval), as last amended by Laws of Utah 2024,~~
~~Chapter 470}~~
- 52 ~~{76-10-104 (Effective upon governor's approval), as last amended by Laws of Utah 2020,~~
~~Chapters 302, 347 (Effective upon governor's approval), as last amended by Laws of Utah~~
~~2020, Chapters 302, 347}~~
- 54 ~~{76-10-104.1 (Effective upon governor's approval), as last amended by Laws of Utah 2020,~~
~~Chapters 302, 347 (Effective upon governor's approval), as last amended by Laws of Utah~~
~~2020, Chapters 302, 347}~~
- 56 ~~{76-10-105.1 (Effective upon governor's approval), as last amended by Laws of Utah 2021,~~
~~Chapter 348 (Effective upon governor's approval), as last amended by Laws of Utah 2021,~~
~~Chapter 348}~~
- 58 ~~{76-10-111 (Effective upon governor's approval), as last amended by Laws of Utah 2020,~~
~~Chapters 302, 347 (Effective upon governor's approval), as last amended by Laws of Utah~~
~~2020, Chapters 302, 347}~~
- 60 ~~{76-10-112 (Effective upon governor's approval), as last amended by Laws of Utah 2020,~~
~~Chapter 302 (Effective upon governor's approval), as last amended by Laws of Utah 2020,~~
~~Chapter 302}~~
- 62 ~~{76-10-113 (Effective upon governor's approval), as last amended by Laws of Utah 2024,~~
~~Chapter 470 (Effective upon governor's approval), as last amended by Laws of Utah 2024,~~
~~Chapter 470}~~
- 64 ~~{76-10-114 (Effective upon governor's approval), as last amended by Laws of Utah 2021,~~
~~First Special Session, Chapter 12 (Effective upon governor's approval), as last amended by~~
~~Laws of Utah 2021, First Special Session, Chapter 12}~~

ENACTS:

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~~{26B-7-523 (Effective upon governor's approval), Utah Code Annotated 1953 (Effective upon governor's approval), Utah Code Annotated 1953}~~
~~{59-14-901 (Effective 07/01/25), Utah Code Annotated 1953 (Effective 07/01/25), Utah Code Annotated 1953}~~
~~{59-14-902 (Effective 07/01/25), Utah Code Annotated 1953 (Effective 07/01/25), Utah Code Annotated 1953}~~
~~{59-14-903 (Effective 07/01/25), Utah Code Annotated 1953 (Effective 07/01/25), Utah Code Annotated 1953}~~
~~{59-14-904 (Effective 07/01/25), Utah Code Annotated 1953 (Effective 07/01/25), Utah Code Annotated 1953}~~
~~{59-14-905 (Effective 07/01/25), Utah Code Annotated 1953 (Effective 07/01/25), Utah Code Annotated 1953}~~
~~{59-14-906 (Effective 07/01/25), Utah Code Annotated 1953 (Effective 07/01/25), Utah Code Annotated 1953}~~
~~{59-14-907 (Effective 07/01/25), Utah Code Annotated 1953 (Effective 07/01/25), Utah Code Annotated 1953}~~

Utah Code Sections affected by Coordination Clause:

REPEALS:

~~{26A-1-131 [(Effective 07/01/24)] (Effective upon governor's approval), as enacted by Laws of Utah 2024, Chapter 470 [(Effective 07/01/24)] (Effective upon governor's approval), as enacted by Laws of Utah 2024, Chapter 470}~~
~~{59-14-810 [(Effective 07/01/24)] (Effective upon governor's approval), as enacted by Laws of Utah 2024, Chapter 470 [(Effective 07/01/24)] (Effective upon governor's approval), as enacted by Laws of Utah 2024, Chapter 470}~~

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

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

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

(1) As used in this section:

(a) "Community location" means:

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

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- 88 (ii) a licensed child-care facility or preschool;
89 (iii) a trade or technical school;
90 (iv) a church;
91 (v) a public library;
92 (vi) a public playground;
93 (vii) a public park;
94 (viii) a youth center or other space used primarily for youth oriented activities;
95 (ix) a public recreational facility;
96 (x) a public arcade; or
97 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 98 (b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.
- 100 (c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 102 (d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 104 ~~[(d)]~~ (e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.
- 106 ~~[(e)]~~ (f) "Local health department" means the same as that term is defined in Section 26A-1-102.
- 108 ~~[(f)]~~ (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 109 ~~[(g)]~~ (h) "Retail tobacco specialty business" means a commercial establishment in which:
- 110 (i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;
- 113 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;
- 115 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;
- 117 (iv) the commercial establishment:
- 118 (A) holds itself out as a retail tobacco specialty business; and
- 119 (B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business; ~~{f or}~~
- 121 (v) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products ~~{f,}~~ ~~;-or~~
- 123 ~~{(vi) any flavored electronic cigarette product is sold.}~~

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- 124 ~~[(h)]~~ (i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.
- 126 ~~[(i)]~~ (j) "Tobacco product" means:
- 127 (i) a tobacco product as defined in Section 76-10-101; or
- 128 (ii) tobacco paraphernalia as defined in Section 76-10-101.
- 129 (2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state
by the state or by delegation of the state's police powers to other governmental entities.
- 132 (3)
- 135 (a) A person may not operate a retail tobacco specialty business in a municipality unless the person
obtains a license from the municipality in which the retail tobacco specialty business is located.
- 137 (b) A municipality may only issue a retail tobacco specialty business license to a person if the person
complies with the provisions of Subsections (4) and (5).
- 137 (4)
- 140 (a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct
business as a retail tobacco specialty business if the retail tobacco specialty business is located
within:
- 141 (i) 1,000 feet of a community location;
- 142 (ii) 600 feet of another retail tobacco specialty business; or
- 143 (iii) 600 feet from property used or zoned for:
- 144 (A) agriculture use; or
- 145 (B) residential use.
- 149 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line
from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of
a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or
zoning districts.
- 152 (5) A municipality may not issue or renew a license for a person to conduct business as a retail tobacco
specialty business until the person provides the municipality with proof that the retail tobacco
specialty business has:
- 156 (a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter 7, Part 5,
Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department
having jurisdiction over the area in which the retail tobacco specialty business is located; and
- 156 (b)

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- (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and
- 159 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.
- 162 (6)
- (a) Nothing in this section:
- 163 (i) requires a municipality to issue a retail tobacco specialty business license; or
- 164 (ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.
- 167 (b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:
- 169 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 171 (ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;
- 174 (iii) upon the recommendation of the department or a local health department under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or
- 177 (iv) under any other provision of state law or local ordinance.
- 178 (7)
- (a) A retail tobacco specialty business is exempt from Subsection (4) if:
- 179 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;
- 181 (ii) the retail tobacco specialty business is operating in a municipality in accordance with all applicable laws except for the requirement in Subsection (4); and
- 183 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.
- 186 (b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:
- 188 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;
- 190

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- (ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;
- 193 (iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and
- 195 (iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:
 - 197 (A) Section 26B-7-503;
 - 198 (B) zoning ordinances;
 - 199 (C) building codes; and
 - 200 (D) the requirements of the license described in Subsection (7)(a)(i).
- 201 (c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:
 - 203 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;
 - 208 (ii) the retail tobacco specialty business is operating in the municipality in accordance with all applicable laws except for the requirement in Subsection (4); and
 - 210 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.
- 213 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:
 - 215 (i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;
 - 218 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;
 - 220 (iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

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- 223 (iv) the retail tobacco specialty business does not substantially change the business premises or business
operation as the business existed when the retail tobacco specialty business received a permit under
Subsection (7)(d)(i); and
- 226 (v) the retail tobacco specialty business maintains the right to operate under the terms of other
applicable laws, including:
- 228 (A) Section 26B-7-503;
- 229 (B) zoning ordinances;
- 230 (C) building codes; and
- 231 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- 232 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000
feet of a public or private kindergarten, elementary, middle, junior high, or high school before July
1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:
- 236 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located
within a group of architecturally unified commercial establishments built on a site that is planned,
developed, owned, and managed as an operating unit; and
- 240 (ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the
relocation described in this Subsection (7)(e).
- 205 (8) Notwithstanding any other provision of law a retail tobacco specialty business may not sell a
flavored electronic cigarette product.
- 207 Section 2. Section **17-50-333** is amended to read:
- 208 **17-50-333. Regulation of retail tobacco specialty business.**
- 245 (1) As used in this section:
- 246 (a) "Community location" means:
- 247 (i) a public or private kindergarten, elementary, middle, junior high, or high school;
- 248 (ii) a licensed child-care facility or preschool;
- 249 (iii) a trade or technical school;
- 250 (iv) a church;
- 251 (v) a public library;
- 252 (vi) a public playground;
- 253 (vii) a public park;
- 254 (viii) a youth center or other space used primarily for youth oriented activities;

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- 255 (ix) a public recreational facility;
256 (x) a public arcade; or
257 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 258 (b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.
260 (c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
262 (d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.
264 [(d)] (e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco
specialty business.
- 266 [(e)] (f) "Local health department" means the same as that term is defined in Section 26A-1-102.
268 [(f)] (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.
269 [(g)] (h) "Retail tobacco specialty business" means a commercial establishment in which:
270 (i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than
35% of the total quarterly gross receipts for the establishment;
273 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco
products, electronic cigarette products, or nicotine products;
275 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco
products, electronic cigarette products, or nicotine products;
277 (iv) the commercial establishment:
278 (A) holds itself out as a retail tobacco specialty business; and
279 (B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty
business;{[or]}
- 281 (v) the retail space features a self-service display for tobacco products, electronic cigarette products, or
nicotine products{[;]} ;-or}
- 283 {(vi) any flavored electronic cigarette product is sold.}
284 [(h)] (i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.
286 [(i)] (j) "Tobacco product" means:
287 (i) the same as that term is defined in Section 76-10-101; or
288 (ii) tobacco paraphernalia as defined in Section 76-10-101.
289 (2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state
by the state or by the delegation of the state's police power to other governmental entities.
292 (3)

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- (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.
- 295 (b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).
- 297 (4)
- (a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:
- 300 (i) 1,000 feet of a community location;
- 301 (ii) 600 feet of another retail tobacco specialty business; or
- 302 (iii) 600 feet from property used or zoned for:
- 303 (A) agriculture use; or
- 304 (B) residential use.
- 305 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.
- 309 (5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:
- 312 (a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and
- 316 (b)
- (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or
- 319 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.
- 322 (6)
- (a) Nothing in this section:

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- 323 (i) requires a county to issue a retail tobacco specialty business license; or
324 (ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or
renewal of a license to conduct business as a retail tobacco specialty business.
- 327 (b) A county may suspend or revoke a retail tobacco specialty business license issued under this
section:
- 329 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of
Unlawful Activity Act;
- 331 (ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco
products or electronic cigarette products to protect children and adolescents;
- 334 (iii) upon the recommendation of the department or a local health department under Title 26B, Chapter
7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or
- 337 (iv) under any other provision of state law or local ordinance.
- 338 (7)
- (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is exempt from
Subsection (4) if:
- 340 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to
conduct business as a retail tobacco specialty business;
- 342 (ii) the retail tobacco specialty business is operating in a county in accordance with all applicable
laws except for the requirement in Subsection (4); and
- 344 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of
a public or private kindergarten, elementary, middle, junior high, or high school.
- 347 (b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:
- 349 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent
revocation;
- 351 (ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of
tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive
days;
- 354 (iii) the retail tobacco specialty business does not substantially change the business premises or business
operation; and
- 356 (iv) the retail tobacco specialty business maintains the right to operate under the terms of other
applicable laws, including:

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- 358 (A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;
- 359 (B) zoning ordinances;
- 360 (C) building codes; and
- 361 (D) the requirements of the license described in Subsection (7)(a)(i).
- 362 (c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is
exempt from Subsection (4) if:
- 364 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco
retailer permit or a retail tobacco specialty business permit under [~~Title 26, Chapter 62, Tobacco,
Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation
of Smoking, Tobacco Products, and Nicotine Products, by the local health department having
jurisdiction over the area in which the retail tobacco specialty business is located;
- 370 (ii) the retail tobacco specialty business is operating in the county in accordance with all applicable laws
except for the requirement in Subsection (4); and
- 372 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a
public or private kindergarten, elementary, middle, junior high, or high school.
- 375 (d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:
- 377 (i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco
specialty business permit from the local health department having jurisdiction over the area in which
the retail tobacco specialty business is located;
- 380 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent
revocation;
- 382 (iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of
tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive
days;
- 385 (iv) the retail tobacco specialty business does not substantially change the business premises or business
operation as the business existed when the retail tobacco specialty business received a permit under
Subsection (7)(d)(i); and
- 388 (v) the retail tobacco specialty business maintains the right to operate under the terms of other
applicable laws, including:
- 390 (A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;
- 391 (B) zoning ordinances;

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- 392 (C) building codes; and
- 393 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- 394 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000
feet of a public or private kindergarten, elementary, middle, junior high, or high school before July
1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:
- 398 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located
within a group of architecturally unified commercial establishments built on a site that is planned,
developed, owned, and managed as an operating unit; and
- 402 (ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the
relocation described in this Subsection (7)(e).
- 368 (8) Notwithstanding any other provision of law a retail tobacco specialty business may not sell a
flavored electronic cigarette product.
- 370 Section 3. Section 26A-1-131 is amended to read:
- 371 **26A-1-131. Electronic cigarette registry enforcement.**
- 373 ~~[(1)~~
- ~~(a) A local health department may examine the books, papers, and records of a retailer in this state, for
the purpose of determining compliance with Section 59-14-810.]~~
- 376 ~~[(b) A local health department may make the inspections and examinations at any time during ordinary
business hours, and may inspect the premises and all desks, safes, vaults, and other fixtures and
furniture contained in or upon the premises for the purpose of ascertaining whether an electronic
cigarette product is held or possessed in violation of Section 59-14-810.]~~
- 381 ~~[(c) Unannounced follow-up examinations of all retailers are required within 30 days after any violation
of Section 59-14-810.]~~
- 383 ~~[(d)] (1)~~
- (a) A local health department may conduct regular inspections of a business that sells an electronic
cigarette product as that term is defined in Section 76-10-101, in accordance with the provisions of
Section 26B-7-516.
- 386 (b) A local health department shall publish the results of all [examinations] inspections at least annually
and shall make the results available to the public on request.
- 388 [(e)] (c) Any electronic cigarette product offered for sale in violation of Section 59-14-810 is declared
to be a contraband good and shall be immediately embargoed by a local health department.

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- 391 ~~[(f)]~~ (d) An electronic cigarette product described in Subsection ~~[(1)(e)]~~ (1)(c) may be embargoed
without a warrant by:
- 393 (i) a local health department; or
- 394 (ii) a law enforcement agency of this state if directed by a local health department with jurisdiction over
where the product is found.
- 396 ~~[(g)]~~ (e) The cost of embargoing shall be borne by the retailer.
- 397 ~~[(h)]~~ (f) In an action brought under this section, a local health department may recover reasonable
expenses incurred in investigating and preparing the case and attorney fees.
- 400 ~~[(i)]~~ (g) A retailer shall remove any embargoed electronic cigarette product from the retailer's active
inventory and work with the wholesaler or distributor to return or dispose the electronic cigarette
product.
- 403 (2)
- (a) A local health department shall disclose to the attorney general any information received under this
section which is requested by the attorney general for purposes of determining compliance with and
enforcing the provisions of this section or Section 59-14-810.
- 407 (b) A local health department and the attorney general shall share with each other information received
under this section and Section 59-14-810 or corresponding laws of other states.
- 410 (c) A local health department shall provide any necessary information to the State Tax Commission
regarding violations of Section 59-14-810.
- 412 (3) A monetary penalty assessed to a retailer by a local health department under this section shall be
doubled if the retailer fails to provide documentation establishing a clear chain of custody back to
the manufacturer.
- 404 ~~{Section 3. Section 26B-7-501 is amended to read: }~~
- 405 **26B-7-501. Definitions.**
As used in this part:
- 407 (1) "Community location" means the same as that term is defined:
- 408 (a) as it relates to a municipality, in Section 10-8-41.6; and
- 409 (b) as it relates to a county, in Section 17-50-333.
- 410 (2) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.
- 411 (3) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 413 (4) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.

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- 415 (5) "Employee" means an employee of a tobacco retailer.
- 416 (6) "Enforcing agency" means the department, or any local health department enforcing the provisions
of this part.
- 418 (7) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 420 ~~[(7)]~~ (8) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty
business.
- 422 ~~[(8)]~~ (9) "Local health department" means the same as that term is defined in Section 26A-1-102.
- 424 ~~[(9)]~~ (10) "Manufacture" includes:
- 425 (a) to cast, construct, or make electronic cigarettes; or
- 426 (b) to blend, make, process, or prepare an electronic cigarette substance.
- 427 ~~[(10)]~~ (11) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance
that is sold in a container that:
- 429 (a) is prefilled by the electronic cigarette substance manufacturer; and
- 430 (b) the electronic cigarette manufacturer does not intend for a consumer to open.
- 431 ~~[(11)]~~ (12) "Manufacturer sealed electronic cigarette product" means:
- 432 (a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not
intend for a consumer to open or refill; or
- 434 (b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.
- 435 ~~[(12)]~~ (13) "Nicotine" means the same as that term is defined in Section 76-10-101.
- 436 ~~[(13)]~~ (14) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 437 ~~[(14)]~~ (15) "Non-tobacco shisha" means any product that:
- 438 (a) does not contain tobacco or nicotine; and
- 439 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 440 ~~[(15)]~~ (16) "Owner" means a person holding a 20% ownership interest in the business that is required to
obtain a permit under this part.
- 442 ~~[(16)]~~ (17) "Permit" means a tobacco retail permit issued under Section 26B-7-507.
- 443 ~~[(17)]~~ (18) "Place of public access" means any enclosed indoor place of business, commerce, banking,
financial service, or other service-related activity, whether publicly or privately owned and whether
operated for profit or not, to which persons not employed at the place of public access have general
and regular access or which the public uses, including:
- 448 (a) buildings, offices, shops, elevators, or restrooms;

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- 449 (b) means of transportation or common carrier waiting rooms;
- 450 (c) restaurants, cafes, or cafeterias;
- 451 (d) taverns as defined in Section 32B-1-102, or cabarets;
- 452 (e) shopping malls, retail stores, grocery stores, or arcades;
- 453 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or
arenas;
- 455 (g) barber shops, hair salons, or laundromats;
- 456 (h) sports or fitness facilities;
- 457 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging
facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants,
cafeterias, other designated dining areas, and restrooms of any of these;
- 461 (j)
 - (i) any child care facility or program subject to licensure or certification under this title, including those
operated in private homes, when any child cared for under that license is present; and
 - 464 (ii) any child care, other than child care as defined in Section 26B-2-401, that is not subject to licensure
or certification under this title, when any child cared for by the provider, other than the child of the
provider, is present;
- 467 (k) public or private elementary or secondary school buildings and educational facilities or the property
on which those facilities are located;
- 469 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious
organization when used solely by the organization members or the members' guests or families;
- 472 (m) any facility rented or leased for private functions from which the general public is excluded and
arrangements for the function are under the control of the function sponsor;
- 475 (n) any workplace that is not a place of public access or a publicly owned building or office but has one
or more employees who are not owner-operators of the business;
- 477 (o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no
smoking", "thank you for not smoking", or similar statement; and
- 479 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.
- 480 ~~[(18)]~~ (19)
 - (a) "Proof of age" means:
 - 481 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

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- 483 (ii) a valid identification that:
484 (A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8,
Identification Card Act;
486 (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
488 (C) includes date of birth; and
489 (D) has a picture affixed;
- 490 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver
License Act, or in accordance with the laws of the state in which the valid driver license is
issued;
- 493 (iv) a valid United States military identification card that:
494 (A) includes date of birth; and
495 (B) has a picture affixed; or
496 (v) a valid passport.
- 497 (b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section
53-3-207.
- 499 ~~[(19)]~~ (20) "Publicly owned building or office" means any enclosed indoor place or portion of a place
owned, leased, or rented by any state, county, or municipal government, or by any agency supported
by appropriation of, or by contracts or grants from, funds derived from the collection of federal,
state, county, or municipal taxes.
- 503 ~~[(20)]~~ (21) "Retail tobacco specialty business" means the same as that term is defined:
504 (a) as it relates to a municipality, in Section 10-8-41.6; and
505 (b) as it relates to a county, in Section 17-50-333.
- 506 ~~[(21)]~~ (22) "Shisha" means any product that:
507 (a) contains tobacco or nicotine; and
508 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 509 ~~[(22)]~~ (23) "Smoking" means:
510 (a) the possession of any lighted or heated tobacco product in any form;
511 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that
contains:
513 (i) tobacco or any plant product intended for inhalation;
514 (ii) shisha or non-tobacco shisha;

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- 515 (iii) nicotine;
- 516 (iv) a natural or synthetic tobacco substitute; or
- 517 (v) a natural or synthetic flavored tobacco product;
- 518 (c) using an electronic cigarette; or
- 519 (d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.
- 521 ~~[(23)]~~ (24) "Tax commission license" means a license issued by the State Tax Commission under:
- 523 (a) Section 59-14-201 to sell a cigarette at retail;
- 524 (b) Section 59-14-301 to sell a tobacco product at retail; or
- 525 (c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.
- 526 ~~[(24)]~~ (25) "Tobacco product" means:
- 527 (a) a tobacco product as defined in Section 76-10-101; or
- 528 (b) tobacco paraphernalia as defined in Section 76-10-101.
- 529 ~~[(25)]~~ (26) "Tobacco retailer" means a person that is required to obtain a tax commission license.

531 ~~{Section 4. Section 26B-7-505 is amended to read: }~~

532 **26B-7-505. Electronic cigarette products -- Labeling -- Requirements to sell -- Advertising --**
Labeling of nicotine products containing nicotine.

- 534 (1) The department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance regarding:
- 538 (a) labeling;
- 539 (b) nicotine content;
- 540 (c) packaging; and
- 541 (d) product quality.
- 542 (2) On or before January 1, 2021, the department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell a manufacturer sealed electronic cigarette product regarding:
- 546 (a) labeling;
- 547 (b) nicotine content;
- 548 (c) packaging; and

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- 549 (d) product quality.
- 550 (3)
- (a) A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the requirements established by the department under Subsection (1).
- 553 (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic cigarette product unless the manufacturer sealed electronic cigarette product complies with the requirements established by the department under Subsection (2).
- 556 ~~[(c) Notwithstanding Subsections (3)(a) and (3)(b), beginning on January 1, 2025, a person may not sell an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product as that term is defined in Section 76-10-101.]~~
- 559 (4)
- (a) A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the requirements established by the department under Subsections (1) and (2).
- 563 (b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.
- 565 (c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette product.
- 567 (5) A person may not advertise an electronic cigarette product as a tobacco cessation device.
- 568 (6)
- (a) Any nicotine product shall contain the statement described in Subsection (6)(b) if the nicotine product:
- 570 (i)
- (A) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal regulations; or
- 572 (B) is not otherwise required under federal or state law to contain a nicotine warning; and
- 574 (ii) contains nicotine.
- 575 (b) A statement shall appear on the exterior packaging of a nicotine product described in Subsection (6) (a) as follows:
- 577 "This product contains nicotine."
- 578 ~~{Section 5. Section 26B-7-509 is amended to read: }~~
- 579 **26B-7-509. Permit term and fees.**

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- 580 (1)
- (a) The term of a permit issued to a retail tobacco specialty business is one year.
- 581 (b) The term of a permit issued to a general tobacco retailer is two years.
- 582 (2)
- (a) A local health department may not issue a permit until the applicant has paid a permit fee to the local health department of:
- 584 (i) for a general tobacco retailer:
- 585 [(i)] (A) \$30 for a new permit;
- 586 [(ii)] (B) \$20 for a permit renewal; or
- 587 [(iii)] (C) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to expire[-] ;
- or
- 589 (ii) for a retail tobacco specialty business, \$3,000.
- 590 (b) A local health department that collects fees under Subsection (2)(a) shall use the fees to administer and enforce the permit requirements described in Sections 26B-7-506 through [26B-7-521] 26B-7-522.
- 593 (c) In addition to the fee described in Subsection (2)(a), a local health department may establish and collect a fee to perform a plan review for a retail tobacco specialty business permit.
- 596 (d) Payment of the fee described in Subsection (2)(a)(ii) is due after an initial application is approved and when a renewal application is approved.
- 598 (3) A permit holder may apply for a renewal of a permit no earlier than 30 days before the day on which the permit expires.
- 600 (4) A tobacco retailer that fails to renew a permit before the permit expires may apply to reinstate the permit by submitting to the local health department:
- 602 (a) the information required in Subsection 26B-7-508(3) and, if applicable, Subsection 26B-7-508(4);
- 604 (b) the fee for the reinstatement of a permit; and
- 605 (c) a signed affidavit affirming that the tobacco retailer has not violated the prohibitions in Subsection 26B-7-507(1)(b) after the permit expired.
- 607 ~~{Section 6. Section 26B-7-511 is amended to read: }~~
- 608 **26B-7-511. Permit requirements for a retail tobacco specialty business -- Tobacco handling permit.**
- 610 (1) A retail tobacco specialty business shall:

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- 611 (a) electronically verify proof of age for any individual that enters the premises of the business in
accordance with Section 26B-7-521;
- 613 (b) except as provided in Subsection 76-10-105.1(4), prohibit any individual from entering the business
if the individual is under 21 years old;~~[-and]~~
- 615 (c) prominently display at the retail tobacco specialty business a sign on the public entrance of the
business that communicates:
- 617 (i) the prohibition on the presence of an individual under 21 years old in a retail tobacco specialty
business in Subsection 76-10-105.1(4); and
- 619 (ii) the prohibition on the sale of tobacco products and electronic cigarette products to an individual
under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1, and 76-10-114~~[-]~~ ;
and
- 622 (d) implement security standards that include an electronic video monitoring system with:
- 624 (i) at least one 19-inch or greater call-up monitor;
- 625 (ii) a printer, capable of producing a clear still photo from any video camera image;
- 626 (iii) video cameras with a recording resolution of at least 1280 x 720 pixels, or the equivalent for
analog, that records continuously during business hours and for one hour before and after business
hours, seven days a week, and is motion activated after business hours that provides coverage of:
- 630 (A) all points of entry; and
- 631 (B) each point-of-sale;
- 632 (iv) a method for storing each video recording from the video camera for at least 45 days after the day
on which the recording was taken;
- 634 (v) a surveillance system with:
- 635 (A) a storage device for locally stored footage secured in the business in a lock box, cabinet, closet, or
secured in another manner, to protect from tampering or criminal theft; or
- 638 (B) a storage system on a remote server which has restricted access to protect from tampering;
- 640 (vi) a failure notification system that provides an audible or visual notification of an error within the
electronic monitoring system; and
- 642 (vii) a date and time stamp embedded on video camera recordings; and
- 643 (e) place a sign in a publicly viewable area that notifies patrons that the patrons are under surveillance.
- 645 (2) A retail tobacco specialty business may not:
- 646

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(a) employ an individual under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product;[-or]

648 (b) permit an employee under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product[-] ; or

650 (c) employ an individual that does not have a tobacco handling permit described in Subsection (3).

652 (3)

(a) An employee, owner, or operator of a retail tobacco specialty business shall obtain and maintain a tobacco handling permit.

654 (b) The department shall:

655 (i) develop a course to instruct an individual described in Subsection (3)(a) regarding the laws and regulations that a retail tobacco specialty business must follow;

657 (ii) issue a tobacco handling permit to any individual who completes the training; and

658 (iii) establish a fee in accordance with Section 63J-1-504 to implement this Subsection (3).

660 (c) A tobacco handling permit expires one year from the day the tobacco handling permit is issued.

662 {Section 7. Section ~~26B-7-518~~ is amended to read: }

663 **26B-7-518. Penalties.**

664 (1)

(a) If an enforcing agency determines that a person has violated the terms of a permit issued under this part, the enforcing agency may impose the penalties described in this section.

667 (b) If multiple violations are found in a single inspection by an enforcing agency or a single investigation by a law enforcement agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as one single violation under Subsections (2), (3), and (4).

671 (2) Except as provided in Subsections (3) and (4), if a violation is found in an investigation by a law enforcement agency under Section 77-39-101 or an inspection by an enforcing agency, the enforcing agency shall:

674 (a) on a first violation at a retail location, impose a penalty of \$1,000;

675 (b) on a second violation at the same retail location that occurs within one year of a previous violation, impose a penalty of \$1,500;

677 (c) on a third violation at the same retail location that occurs within two years after two previous violations, impose:

679

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- (i) a suspension of the permit for 30 consecutive business days within 60 days after the day on which the third violation occurs; or
- 681 (ii) a penalty of \$2,000; and
- 682 (d) on a fourth or subsequent violation within two years of three previous violations:
- 683 (i) impose a penalty of \$2,000;
- 684 (ii) revoke a permit of the retailer; and
- 685 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.
- 688 (3) ~~[If a violation is found in an investigation of]~~ Except as provided in Subsection (7), if a general tobacco retailer [by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old and the violation is committed by the owner of the general tobacco retailer] sells a tobacco product to an individual under 21 years old, the enforcing agency shall:
- 694 (a) on a first violation, impose a fine of \$2,000 on the general tobacco retailer; and
- 695 (b) on the second violation for the same general tobacco retailer within one year of the first violation:
- 697 (i) impose a fine of \$5,000; and
- 698 (ii) revoke the permit for the general tobacco retailer.
- 699 (4) ~~If [a violation is found in an investigation of] a retail tobacco specialty business [by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old]~~ sells a tobacco product to an individual under 21 years old, the enforcing agency shall:
- 703 (a) on the first violation:
- 704 (i) impose a fine of ~~[\$5,000]~~ \$10,000; ~~and~~
- 705 ~~(ii)~~ impose an additional fine of \$1,000 for each product sold up to \$100,000; and
- 706 ~~[(ii)]~~ (iii) immediately suspend the permit for 30 consecutive days; and
- 707 (b) on the second violation at the same retail location within two years of the first violation:
- 709 (i) impose a fine of ~~[\$10,000]~~ \$20,000; ~~and~~
- 710 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and
- 711 ~~[(ii)]~~ (iii) revoke the permit for the retail tobacco specialty business.
- 712 (5)

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(a) Except when a transfer described in Subsection (6) occurs, a local health department may not issue a permit to:

(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3); or

(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (2), (3), or (4).

(b) A person whose permit:

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

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

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

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

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

(7) If a general tobacco retailer is found to be selling a flavored electronic cigarette product to an individual under 21 years old, the enforcing agency shall:

(a) on the first violation:

(i) impose a fine of \$10,000;

(ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and

(iii) immediately suspend the permit for 30 consecutive days; and

(b) on the second violation at the same retail location within two years of the first violation:

(i) impose a fine of \$20,000;

(ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and

(iii) revoke the permit for the general tobacco retailer.

~~{Section 8. Section 26B-7-521 is amended to read: }~~

26B-7-521. Verification of proof of age -- Verification of identification.

(1) As used in this section:

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

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

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

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

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

754 (b) verify the validity of the proof of age electronically in accordance with Subsection (4).

755 (4)

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

757 (b) Beginning July 1, 2025, a retail tobacco specialty business shall use an identification verification system.

759 (c) The identification verification system described in Subsection (4)(b) shall analyze and conduct a forensic check of the front and back of a proof of identification for authentic security features to detect a fraudulent proof of identification, which shall include the ability to:

763 (i) read and identify ultraviolet and infrared images, microprint, laser perforation, holograms, and other proof of identification specific security features;

765 (ii) scan and analyze a proof of identification issued from any state or territory within the United States;

767 (iii) scan and read magstripe, 2D barcodes, and machine readable zones on United States passport cards;

769 (iv) display easy to read results of the identification analysis and alert staff when a proof of identification appears to be fake or false;

771 (v) detect and alert to an expired or invalid proof of identification;

772 (vi) ability to identify and alert to pass-back or proof of identification sharing; and

773 (vii) to capture a real time image of the individual presenting the proof of identification.

775 (5)

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

777 (b) Information obtained under this section:

778 (i) shall be kept for at least 180 days; and

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

781 (6)

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

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

(ii) purchase a tobacco product or an electronic cigarette product.

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

~~[(i) accompanied by a parent or legal guardian who provides proof of age; or]~~

~~[(ii)~~

~~(A)]~~ (i) present at the retail tobacco specialty business solely for the purpose of providing a commercial service to the retail tobacco specialty business, including making a commercial delivery;

~~[(B)]~~ (ii) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and

~~[(C)]~~ (iii) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (6)(b)(ii)(A).

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

(a) an employee;

(b) a peace officer; or

(c) a representative of an enforcing agency.

Section 9. Section **9** is enacted to read:

26B-7-523. Tracking -- Pilot program.

(1) As used in this section, "RFID" means radio-frequency identification.

(2) Beginning May 15, 2026, a retail tobacco specialty business shall have in place an inventory control system that tracks flavored electronic cigarette products.

(3) The inventory control system shall have an RFID tag attached to each flavored electronic cigarette product package label in which:

(a) each flavored electronic cigarette product is issued a unique identification number via an RFID tag; and

(b) the tag is placed in a position that can be clearly read and include the following information:

(i) a unique identification number;

(ii) the name of the retail tobacco specialty business that sells the product; and

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- 815 (iii) the date of sale of the flavored electronic cigarette product.
- 816 (4) A retail tobacco specialty business shall maintain the information required by this section for at least
180 days after the day on which the flavored electronic cigarette product leaves the retail tobacco
specialty business.
- 819 (5)
- 821 (a) The department shall conduct a pilot program regarding the effectiveness of RFID tag tracking if:
- 823 (i) at least 20 retail tobacco specialty business licensees elect to participate before July 1, 2025; and
(ii) the retail tobacco specialty business agrees to share data that the department determines relevant
regarding RFID tracking to determine if RFID tracking is effective in preventing individuals
under 21 years old from obtaining a flavored electronic cigarette product.
- 827 (b) If the department conducts a pilot program under this section, the department shall provide a report
to the Health and Human Services Interim Committee before January 1, 2026.
- 830 (c) The department shall set a fee for participating retail tobacco specialty businesses to recover the
department's costs for conducting the pilot program.
- 832 ~~{Section 10. Section 59-14-102 is amended to read: }~~
- 833 **59-14-102. Definitions.**
- As used in this chapter:
- 835 (1) "Alternative nicotine product" means the same as that term is defined in Section 76-10-101.
- 837 (2) "Cigarette" means a roll made wholly or in part of tobacco:
- 838 (a) regardless of:
- 839 (i) the size of the roll;
- 840 (ii) the shape of the roll;
- 841 (iii) whether the tobacco is flavored, adulterated, or mixed with any other ingredient; or
- 843 (iv) whether the tobacco is heated or burned; and
- 844 (b) if the roll has a wrapper or cover that is made of paper or any other substance or material except
tobacco.
- 846 (3) "Cigarette rolling machine" means a device or machine that has the capability to produce at least
150 cigarettes in less than 30 minutes.
- 848 (4) "Cigarette rolling machine operator" means a person who:
- 849 (a)
- (i) controls, leases, owns, possesses, or otherwise has available for use a cigarette rolling machine; and

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- 851 (ii) makes the cigarette rolling machine available for use by another person to produce a cigarette; or
853 (b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.
- 854 (5) "Consumer" means a person that is not required:
855 (a) under Section 59-14-201 to obtain a license under Section 59-14-202;
856 (b) under Section 59-14-301 to obtain a license under Section 59-14-202;~~[-or]~~
857 (c) to obtain a license under Section 59-14-803[-] ; or
858 (d) to obtain a license under Section 59-14-902.
- 859 (6) "Counterfeit cigarette" means:
860 (a) a cigarette that has a false manufacturing label; or
861 (b) a package of cigarettes bearing a counterfeit tax stamp.
- 862 (7)
(a) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.
863 (b) "Electronic cigarette" does not include a cigarette or a tobacco product.
- 864 (8) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
866 (9) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.
- 868 (10) "Importer" means a person that imports into the United States, either directly or indirectly, a
finished cigarette for sale or distribution.
- 870 (11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any other person
doing business as a distributor or retailer of cigarettes on tribal lands located in the state.
- 873 (12) "Little cigar" means a roll for smoking that:
874 (a) is made wholly or in part of tobacco;
875 (b) uses an integrated cellulose acetate filter or other similar filter; and
876 (c) is wrapped in a substance:
877 (i) containing tobacco; and
878 (ii) that is not exclusively natural leaf tobacco.
- 879 (13)
(a) Except as provided in Subsection (13)(b), "manufacturer" means a person that:
880 (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or
881 (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels, repackages,
relabels, or imports an electronic cigarette product or a nicotine product.
- 884 (b) "Manufacturer" does not include a cigarette rolling machine operator.

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- 885 (14) "Moist snuff" means tobacco that:
886 (a) is finely cut, ground, or powdered;
887 (b) has at least 45% moisture content, as determined by the commission by rule made in accordance
with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
889 (c) is not intended to be:
890 (i) smoked; or
891 (ii) placed in the nasal cavity; and
892 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or distributed in
single-use units, including:
894 (i) tablets;
895 (ii) lozenges;
896 (iii) strips;
897 (iv) sticks; or
898 (v) packages containing multiple single-use units.
899 (15) "Nicotine" means the same as that term is defined in Section 76-10-101.
900 (16) "Nicotine product" means the same as that term is defined in Section 76-10-101.
901 (17) "Nontherapeutic nicotine device" means the same as that term is defined in Section 76-10-101.
903 (18) "Nontherapeutic nicotine device substance" means the same as that term is defined in Section
76-10-101.
905 (19) "Nontherapeutic nicotine product" means the same as that term is defined in Section 76-10-101.
907 (20) "Prefilled electronic cigarette" means the same as that term is defined in Section 76-10-101.
909 (21) "Prefilled nontherapeutic nicotine device" means the same as that term is defined in Section
76-10-101.
911 (22) "Retailer" means a person that:
912 (a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product to a consumer in
the state; or
914 (b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine product to a
consumer in the state.
916 (23) "Stamp" means the indicia required to be placed on a cigarette package that evidences payment of
the tax on cigarettes required by Section 59-14-205.
918 (24)

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(a) "Tobacco product" means a product made of, or containing, tobacco.

(b) "Tobacco product" includes:

(i) a cigarette produced from a cigarette rolling machine;

(ii) a little cigar; or

(iii) moist snuff.

(c) "Tobacco product" does not include a cigarette.

(25) "Tribal lands" means land held by the United States in trust for a federally recognized Indian tribe.

~~{Section 11. Section 59-14-807 is amended to read: }~~

59-14-807. Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account consists of:

(a) revenue collected from the tax imposed by Section 59-14-804;

~~[(b) fees and penalties collected under Section 59-14-810;]~~

~~[(e)]~~ (b) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of electronic cigarette products, as defined in Section 76-10-101:

(i) if the total amount of the judgment, settlement, or compromise received by the state exceeds \$1,000,000; and

(ii) after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in Subsection ~~[(2)(e)]~~ (2)(b); and

~~[(d)]~~ (c) amounts appropriated by the Legislature.

(3)

(a) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

(i) \$2,000,000, which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;

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- (ii) \$2,000,000 to the Department of Health and Human Services for statewide cessation programs and prevention education;
- 952 (iii) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;
- 956 (iv) \$3,000,000, which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;
- 959 (v) \$5,084,200 to the State Board of Education for school-based prevention programs; and
- 961 (vi) \$2,000,000 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television[; and] .
- 965 [~~(vii) of the money deposited under Section 59-14-810;~~]
- 966 [~~(A) to the commission, in an amount equal to the amount necessary to create and maintain the registry described in Section 59-14-810;~~]
- 968 [~~(B) to the Department of Health and Human Services, in an amount necessary for completing duties described in Section 59-14-810; and~~]
- 970 [~~(C) to the Department of Health and Human Services, the remainder to be divided among the local health departments for inspection and enforcement described in Sections 26A-1-131 and 59-14-810;~~]
- 973 (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the distribution amounts shall be adjusted proportionately.
- 976 (4)
- (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:
- 978 (i) the regulation provisions described in Section 26B-7-505;
- 979 (ii) the labeling requirement described in Section 26B-7-505; and
- 980 (iii) the penalty provisions described in Section 26B-7-518.
- 981 (b) The Department of Health and Human Services shall use the money received in accordance with Subsection (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26B-1-428.

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- 984 (c) The local health departments shall use the money received in accordance with Subsection (3)(a)(iv)
to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program
created in Section 26A-1-129.
- 987 (d) The State Board of Education shall use the money received in accordance with Subsection (3)(a)(v)
to distribute to local education agencies to pay for:
- 989 (i)
- (A) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);
- 991 (B) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)
(ii); and
- 993 (C) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade
4 or 5, as described in Subsection 53G-10-406(3)(b); or
- 996 (ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.
- 997 (5)
- (a) The fund shall earn interest.
- 998 (b) All interest earned on fund money shall be deposited into the fund.
- 999 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and
Nicotine Product Proceeds Restricted Account after the distribution described in Subsection (3) may
only be used for:
- 1002 (a) funding commission personnel to enforce compliance with the tax collection requirements of this
part; and
- 1004 (b) programs and activities related to the prevention and cessation of electronic cigarette, nicotine
products, marijuana, and other drug use.

415 Section 4. Section 59-14-810 is amended to read:

416 **59-14-810. Electronic cigarette product registry.**

- 418 (1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that is sold in
this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or
intermediaries, shall certify under penalty of perjury on a form and in the manner prescribed by the
commission, that:
- 422 (a) the manufacturer agrees to comply with this section; and
- 423 (b) the electronic cigarette product is a premarket authorized or pending electronic cigarette product as
defined in Section 76-10-101 and will not be illegal to be sold in the state as of January 1, 2025.

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- 426 (2) When submitting the certification a manufacturer shall submit a form that separately lists each
electronic cigarette product that is sold in this state.
- 428 (3)
- 429 (a) Each certification form shall include:
- 431 (i) the name of the electronic cigarette product, nicotine content level by percentage, and any
flavors contained in the product;
- 431 (ii)
- (A) a copy of the order granting a premarket tobacco product application of the electronic cigarette
product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i);
or
- 434 (B) evidence that the premarket tobacco product application for the electronic cigarette product
or nicotine product was submitted to the United States Food and Drug Administration before
September 9, 2020, and a final authorization or order has not yet taken effect;
- 438 (iii) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added to the registry
in the first instance; and
- 440 (iv) information described in Subsection (10) if applicable.
- 441 (b) The commission shall make the materials submitted under Subsection (3)(a) available to the
Department of Health and Human Services for review and approval.
- 443 (c) A manufacturer required to submit a certification form under this section shall notify the
commission and the Department of Health and Human Services in a manner prescribed by the
commission within 30 days of any material change making the certification form no longer accurate,
including:
- 447 (i) the issuance or denial of a marketing authorization or other order by the United States Food and
Drug Administration under 21 U.S.C. Sec. 387j; or
- 449 (ii) any other order or action by the United States Food and Drug Administration or any court that
affects the ability of the electronic cigarette product to be introduced or delivered into interstate
commerce for commercial distribution in the United States.
- 453 (d) On or before January 31 of each year and in a manner prescribed by the commission, a manufacturer
shall:
- 455 (i) recertify that the information contained in the certification is correct and accurate;
- 456 (ii) correct or amend information if necessary; and

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- 457 (iii) pay a \$250 nonrefundable fee for each electronic cigarette product on the registry that is
manufactured by the manufacturer.
- 459 (e) A manufacturer may amend a certification, including to add additional electronic cigarette products
to the registry, if all requirements of this section are met.
- 461 (f) The commission shall:
- 462 (i) provide an electronic notification to a manufacturer that has not submitted a recertification under
Subsection (3)(d); and
- 464 (ii) remove a manufacturer or an electronic cigarette product that is not recertified from the registry by
March 15.
- 466 (4)
- (a) The Department of Health and Human Services shall review materials described in Subsection (3)(a)
and notify the commission regarding whether an electronic cigarette product should be included in
the registry.
- 469 (b) On or before October 1, 2024, the commission shall make publicly available on the commission's
website a registry that lists each electronic cigarette product manufacturer and each electronic
cigarette product for which certification forms have been approved by the Department of Health and
Human Services.
- 473 (c) An electronic cigarette product may not be listed on the registry unless the Department of Health
and Human Services determines the requirements of Subsection (3)(a) are met.
- 476 (5)
- (a) If the Department of Health and Human Services obtains information that an electronic cigarette
product should not be listed in the registry, the Department of Health and Human Services shall
provide the manufacturer notice and an opportunity to cure deficiencies before notifying the
commission to remove the manufacturer or products from the registry.
- 481 (b) Except as provided in Subsection (5)(c), the Department of Health and Human Services shall
comply with Title 63G, Chapter 4, Administrative Procedures Act, before notifying the commission
to remove an electronic cigarette product or manufacturer from the registry.
- 485 (c) Subsection (5)(b) does not apply to a manufacturer failing:
- 486 (i) to decertify an electronic cigarette product;
- 487 (ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or
- 488 (iii) to comply with Subsection (10).

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- 489 (6)
- (a) If a product is removed from the registry, each retailer, distributor, and wholesaler shall have 30 days from the day on which the product is removed from the registry to remove the product from any inventory and return the product to the manufacturer for disposal.
- 493 (b) After the period described in Subsection (6)(a), any electronic cigarette product of a manufacturer identified in the notice of removal are contraband and are subject to penalties under Subsection (8)[~~and seizure, forfeiture, and destruction under Section 26A-1-131~~].
- 497 (7)
- (a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an electronic cigarette product in this state that is not included in the registry.
- 499 (b) A manufacturer may not sell, either directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, an electronic cigarette product in this state that is not included in the registry.
- 502 (8)
- (a) A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic cigarette product in this state that is not included in the registry shall be subject to a civil penalty of:
- 505 (i) \$1,000 for each product offered for sale in violation of this section; and
- 506 (ii) \$100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.
- 508 (b) The commission shall suspend the person's license issued under Section 59-14-803 for a violation of Subsection (8)(a) as follows:
- 510 (i) for a second violation within a 12-month period, at least 14 days;
- 511 (ii) for a third violation within a 12-month period, at least 60 days; or
- 512 (iii) for a fourth violation within a 12-month period, at least one year.
- 513 (c) A manufacturer whose electronic cigarette products are not listed in the registry and are sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil penalty of:
- 516 (i) \$1,000 for each product offered for retail sale in violation of this section; and
- 517 (ii) \$100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.
- 519

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(d) A manufacturer that falsely represents any information required by a certification form described in this section shall be guilty of a class C misdemeanor for each false representation.

522 (e) A repeated violation of this section shall constitute a deceptive act or practice as provided in Sections 13-11-4 and 13-11a-3 and shall be subject to any remedies or penalties available for a violation of those sections.

525 (9)

(a) To assist in ensuring compliance and enforcement of this section and Section 26A-1-131, the commission shall disclose to the following entities, upon request, any information obtained under this section:

528 (i) the Department of Health and Human Services;

529 (ii) a local health department; or

530 (iii) the attorney general.

531 (b) The commission and attorney general shall share with each other information received under this section, or corresponding laws of other states.

533 (10)

(a)

[~~(f)~~] The commission may not list a nonresident manufacturer of an electronic cigarette product in the registry unless:

535 [~~(A)~~] (i) the nonresident manufacturer has registered to do business in the state as a foreign corporation or business entity; or

537 [~~(B)~~] (ii) the nonresident manufacturer appoints and maintains without interruption the services of an agent in this state to receive any service of process on behalf of the manufacturer.

540 (b) The nonresident manufacturer shall provide the name, address, and telephone number of the agent to the commission.

542 (c)

(i) A nonresident manufacturer shall provide notice to the commission 30 days before the termination of the authority of an agent and shall further provide proof to the satisfaction of the commission of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment.

546

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(ii) In the event an agent terminates an agency appointment, the manufacturer shall notify the commission of the termination within five calendar days and shall include proof to the satisfaction of the commission of the appointment of a new agent.

550 (11) Before May 31 of each year, the commission and the Department of Health and Human Services shall provide a report to the Revenue and Taxation Interim Committee and the Health and Human Services Interim Committee regarding:

553 (a) the status of the registry;

554 (b) manufacturers and products included in the registry;

555 (c) revenue and expenditures related to administration of this section; and

556 (d) enforcement activities undertaken under this section and Section 26A-1-131.

557 (12) All fees and penalties collected under this section shall be used for administration and enforcement of this section and Section 26A-1-131.

559 (13) The commission, in consultation with the Department of Health and Human Services, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

1006 Section 12. Section **12** is enacted to read:

1007

Part 9. Flavored Electronic Cigarette Tax

1008

59-14-901. Definitions.

As used in this part:

1010 (1) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

1012 (2) "Licensee" means a person that holds a license to sell a flavored electronic cigarette product under this part.

1014 (3)

(a) "Retail price" means the amount charged by a retailer for a flavored electronic cigarette product.

1016 (b) "Retail price" includes any part of the amount charged by a retailer that is paid or recouped for a tax imposed on a distributor under Section 59-14-804.

1018 Section 13. Section **13** is enacted to read:

1019

59-14-902. License to sell flavored electronic cigarette product.

1021 (1) A person may not sell or offer to sell a flavored electronic cigarette product in this state without first:

1023

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- (a) obtaining a license from the commission under this section to sell a flavored electronic cigarette product; and
- 1025 (b) complying with any bonding requirement described in Subsection (5).
- 1026 (2) A license described in this section is required in addition to any other license required by law.
- 1028 (3) The commission shall issue a license to sell a flavored electronic cigarette product to a person that submits an application, on a form created by the commission, that includes:
- 1030 (a) the person's name;
- 1031 (b) the address of the facility where the person will sell a flavored cigarette product; and
- 1032 (c) any other information the commission requires to implement this part.
- 1033 (4) A license described in Subsection (3) is:
- 1034 (a) valid only at one fixed business address;
- 1035 (b) valid for three years;
- 1036 (c) valid only for a physical location; and
- 1037 (d) renewable if a licensee meets the criteria for licensing described in Subsection (3).
- 1038 (5)
- (a) The commission shall require a retailer that is responsible under this part for the collection of tax on a flavored electronic cigarette product to post a bond.
- 1040 (b) The retailer may post the bond required by Subsection (5)(a) in combination with any bond required by Section 59-14-201, 59-14-301, or 59-14-803.
- 1042 (c) Subject to Subsection (5)(d), the commission shall determine the form and amount of the bond.
- 1044 (d) The minimum amount of the bond shall be \$500.
- 1045 (e) If a bond is posted in combination with another bond under (5)(b), the total amount of the bond shall be equal to the sum total of \$500 plus the amount required by the other provision of law.
- 1048 (6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the additional information described in Subsection (3)(c) that a person shall provide in the application described in Subsection (3).
- 1052 (7) It is a class B misdemeanor for a person to violate Subsection (1).
- 1053 (8) The commission may not charge a fee for a license under this section.
- 1054 Section 14. Section **14** is enacted to read:
- 1055 **59-14-903. Publication of licensed distributors -- Retailer transaction only with licensed distributor -- Penalty.**

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- 1057 (1)
(a) The commission shall maintain a list that includes the identity of each person licensed under this part to sell a flavored electronic cigarette product.
- 1059 (b) The list shall be:
- 1060 (i) published on the commission website; and
- 1061 (ii) updated by the commission at least once per quarter.
- 1062 (2) A distributor may sell a flavored electronic cigarette product only to a licensed retailer identified on the list described in Subsection (1).
- 1064 (3)
(a) The commission may impose a penalty against a distributor that sells a flavored electronic cigarette product to a person other than a licensed retailer.
- 1066 (b) The penalty is \$10,000 for each sale.
- 1067 Section 15. Section **15** is enacted to read:
- 1068 **59-14-904. Taxation of flavored electronic cigarette products.**
- 1069 (1)
(a) Beginning on July 1, 2025, a tax is imposed on a flavored electronic cigarette product.
- 1071 (b) A tax described in this section is in addition to any other tax required by law on an electronic cigarette product, including the tax described in Section 59-14-804.
- 1073 (2) The amount of tax imposed under Subsection (1) is .025 multiplied by the retail price of each product sold.
- 1075 (3) If a product is sold in the same package as a product that is taxed under Subsection (1), the tax described in Subsection (2) shall apply to the retail price of the entire packaged product.
- 1078 (4) A retailer, consumer, or user shall pay the tax levied under Subsection (1) at the point of sale.
- 1080 (5)
(a) The retailer shall remit the taxes collected in accordance with this section to the commission.
- 1082 (b) The commission shall deposit revenues generated by the tax imposed by this section into the Flavored Electronic Cigarette Product Proceeds Restricted Account created in Section 59-14-906.
- 1085 Section 16. Section **16** is enacted to read:
- 1086 **59-14-905. Remittance of tax -- Returns -- Invoice required -- Filing requirement--**
Exception -- Penalty -- Overpayment.
- 1088 (1)

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- (a) The retailer that collects the tax imposed on a flavored electronic cigarette product shall remit to the commission, in an electronic format approved by the commission:
- 1090 (i) the tax collected in the previous calendar quarter; and
- 1091 (ii) the quarterly tax return.
- 1092 (b) The tax collected and the return are due on or before the last day of April, July, October, and
- 1094 January.
- (2)
- (a) A consumer that purchases an untaxed flavored electronic cigarette product for use or other
- 1096 consumption shall:
- (i) file with the commission, on forms prescribed by the commission, a statement showing the
- 1098 quantity and description of the item subject to tax under this part; and
- (ii) pay the tax imposed by this part on that item.
- 1099 (b) The consumer shall file the statement described in Subsection (2)(a) and pay the tax due on or
- before the last day of the month immediately following the month during which the consumer
- purchased an untaxed flavored electronic cigarette product.
- 1102 (c) A consumer shall maintain records necessary to determine the amount of tax the consumer is liable
- to pay under this part for a period of three years following the date on which the statement required
- by this section was filed.
- 1105 (3) A tourist who imports an untaxed flavored electronic cigarette product into the state does not need to
- file the statement described in Subsection (2) or pay the tax if the item is for the tourist's own use or
- consumption while in this state.
- 1108 (4) In addition to the tax required by this part, a person shall pay a penalty as provided in Section
- 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402, if a person
- subject to this section fails to:
- 1111 (a) pay the tax prescribed by this part;
- 1112 (b) pay the tax on time; or
- 1113 (c) file a return required by this part.
- 1114 (5) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the manner
- prescribed in Section 59-1-402.
- 1116 Section 17. Section **17** is enacted to read:
- 1117 **59-14-906. Flavored Electronic Cigarette Product Proceeds Restricted Account.**

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- 1119 (1) There is created within the General Fund a restricted account known as the "Flavored Electronic
1121 Cigarette Product Proceeds Restricted Account."
- 1121 (2) The account consists of revenue collected by the tax imposed in Section 59-14-904.
- 1122 (3) Subject to Subsection (5), for each fiscal year and subject to appropriation by the Legislature, the
1124 Division of Finance shall distribute:
- 1124 (a) 80% of the amount in the account to the Department of Health and Human Services to be used as
1126 follows:
- 1126 (i) 50% of the amount transferred to the Department of Health and Human Services, for tobacco
1130 and nicotine prevention programs and for enforcement of state law related to electronic cigarette
1132 products by the Department of Health and Human Services and each local health department; and
- 1130 (ii) 50% of the amount transferred to the Department of Health and Human Services, for any of the
1132 following:
- 1132 (A) cancer research conducted by one or more cancer research organizations as determined by the
1134 Department of Health and Human Services; or
- 1134 (B) research regarding the health risks of electronic cigarette product use conducted by one or more
1137 research organizations as determined by the Department of Health and Human Services; and
- 1137 (b) 20% of the amount in the account to the State Board of Education to pay for the school lunch
1139 program described in Section 53E-3-510.
- 1139 (4)
- 1140 (a) The fund shall earn interest.
- 1140 (b) Interest earned on fund money shall be deposited into the fund.
- 1141 (5) Subject to legislative appropriations, before any amount of money is distributed under Subsection
1144 (3), the Division of Finance shall distribute an amount to the commission to enforce compliance
1145 with the tax collection requirements of this part.
- 1144 Section 18. Section **18** is enacted to read:
- 1145 **59-14-907. Reports of illegal product.**
- 1149 If the commission suspects that a flavored electronic cigarette product is being sold in
1150 violation of a law other than a law described in this part, the commission shall report the name
1149 of the seller, the type of product, and the county where the product was sold:
- 1149 (1) to the local health department for the county where the sale occurs;
- 1150 (2) to the Department of Health and Human Services; and

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1151 (3) to the Department of Public Safety.

562 Section 5. Section 63I-1-210 is amended to read:

563 **63I-1-210. Repeal dates: Title 10.**

564 (1) Subsection 10-1-104(5)(c), regarding a preliminary municipality, is repealed January 1, 2031.

566 (2) Subsection 10-2a-201.5(1)(b), regarding a preliminary municipality, is repealed January 1, 2031.

568 (3) Subsection 10-2a-202(5), regarding a feasibility request, is repealed January 1, 2031.

569 (4) Title 10, Chapter 2a, Part 5, Incorporation of a Preliminary Municipality, is repealed January 1, 2031.

571 (5) Subsection 10-8-41.6(8), regarding the prohibition on flavored electronic cigarette product sales, is repealed July 1, 2030.

573 Section 6. Section 63I-1-217 is amended to read:

574 **63I-1-217. Repeal dates: Titles 17 through 17D.**

576 (1) Section 17-41-102, Study of critical infrastructure materials operations and related mining, is repealed July 1, 2026.

578 (2) Subsection 17-50-333(8), regarding the prohibition on flavored electronic cigarette product sales, is repealed July 1, 2030.

580 Section 7. Section 63I-1-217 is amended to read:

581 **63I-1-217. Repeal dates: Titles 17 through 17D.**

582 (1) Section 17-18a-203.5, District attorney data collection -- Report, is repealed July 1, 2029.

584 (2) Section 17-41-102, Study of critical infrastructure materials operations and related mining, is repealed July 1, 2026.

586 (3) Subsection 17-50-333(8), regarding the prohibition on flavored electronic cigarette product sales, is repealed July 1, 2030.

588 Section 8. Section 63I-1-226 is amended to read:

589 **63I-1-226. Repeal dates: Titles 26 through 26B.**

591 (1) Section 26A-1-131, Electronic cigarette registry enforcement, is repealed July 1, 2030.

592 (2) Subsection 26B-1-204(2)(h), regarding the Primary Care Grant Committee, is repealed July 1, 2025.

594 [(2)] (3) Section 26B-1-315, Medicaid ACA Fund, is repealed July 1, 2034.

595 [(3)] (4) Section 26B-1-318, Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

596 [(4)] (5) Section 26B-1-402, Rare Disease Advisory Council Grant Program -- Creation -- Reporting, is repealed July 1, 2026.

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- 598 ~~[(5)]~~ (6) Section 26B-1-409, Utah Digital Health Service Commission -- Creation -- Membership --
Duties, is repealed July 1, 2025.
- 600 ~~[(6)]~~ (7) Section 26B-1-410, Primary Care Grant Committee, is repealed July 1, 2025.
- 601 ~~[(7)]~~ (8) Section 26B-1-416, Utah Children's Health Insurance Program Advisory Council, is repealed
July 1, 2025.
- 603 ~~[(8)]~~ (9) Section 26B-1-417, Brain and Spinal Cord Injury Advisory Committee -- Membership --
Duties, is repealed July 1, 2029.
- 605 ~~[(9)]~~ (10) Section 26B-1-422, Early Childhood Utah Advisory Council -- Creation -- Compensation --
Duties, is repealed July 1, 2029.
- 607 ~~[(10)]~~ (11) Section 26B-1-425, Utah Health Workforce Advisory Council -- Creation and membership,
is repealed July 1, 2027.
- 609 ~~[(11)]~~ (12) Section 26B-1-428, Youth Electronic Cigarette, Marijuana, and Other Drug Prevention
Committee and Program -- Creation -- Membership -- Duties, is repealed July 1, 2025.
- 612 ~~[(12)]~~ (13) Section 26B-1-430, Coordinating Council for Persons with Disabilities -- Policy regarding
services to individuals with disabilities -- Creation -- Membership -- Expenses, is repealed July 1,
2027.
- 615 ~~[(13)]~~ (14) Section 26B-1-432, Newborn Hearing Screening Committee, is repealed July 1, 2026.
- 617 ~~[(14)]~~ (15) Section 26B-2-407, Drinking water quality in child care centers, is repealed July 1, 2027.
- 619 ~~[(15)]~~ (16) Subsection 26B-3-107(9), regarding reimbursement for dental hygienists, is repealed July 1,
2028.
- 621 ~~[(16)]~~ (17) Section 26B-3-136, Children's Health Care Coverage Program, is repealed July 1, 2025.
- 623 ~~[(17)]~~ (18) Section 26B-3-137, Reimbursement for diabetes prevention program, is repealed June 30,
2027.
- 625 ~~[(18)]~~ (19) Subsection 26B-3-213(2)(b), regarding consultation with the Behavioral Health Crisis
Response Committee, is repealed December 31, 2026.
- 627 ~~[(19)]~~ (20) Section 26B-3-302, DUR Board -- Creation and membership -- Expenses, is repealed July 1,
2027.
- 629 ~~[(20)]~~ (21) Section 26B-3-303, DUR Board -- Responsibilities, is repealed July 1, 2027.
- 630 ~~[(21)]~~ (22) Section 26B-3-304, Confidentiality of records, is repealed July 1, 2027.
- 631 ~~[(22)]~~ (23) Section 26B-3-305, Drug prior approval program, is repealed July 1, 2027.
- 632 ~~[(23)]~~ (24) Section 26B-3-306, Advisory committees, is repealed July 1, 2027.

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- 633 ~~[(24)]~~ (25) Section 26B-3-307, Retrospective and prospective DUR, is repealed July 1, 2027.
- 634 ~~[(25)]~~ (26) Section 26B-3-308, Penalties, is repealed July 1, 2027.
- 635 ~~[(26)]~~ (27) Section 26B-3-309, Immunity, is repealed July 1, 2027.
- 636 ~~[(27)]~~ (28) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2034.
- 638 ~~[(28)]~~ (29) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2034.
- 640 ~~[(29)]~~ (30) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.
- 642 ~~[(30)]~~ (31) Section 26B-3-910, Alternative eligibility -- Report -- Alternative Eligibility Expendable Revenue Fund, is repealed July 1, 2028.
- 644 ~~[(31)]~~ (32) Section 26B-4-710, Rural residency training program, is repealed July 1, 2025.
- 645 ~~[(32)]~~ (33) Subsection 26B-5-112(1)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 647 ~~[(33)]~~ (34) Subsection 26B-5-112(5)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 649 ~~[(34)]~~ (35) Section 26B-5-112.5, Mobile Crisis Outreach Team Grant Program, is repealed December 31, 2026.
- 651 ~~[(35)]~~ (36) Section 26B-5-114, Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.
- 653 ~~[(36)]~~ (37) Section 26B-5-118, Collaborative care grant program, is repealed December 31, 2024.
- 655 ~~[(37)]~~ (38) Section 26B-5-120, Virtual crisis outreach team grant program, is repealed December 31, 2026.
- 657 ~~[(38)]~~ (39) Subsection 26B-5-609(1)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 659 ~~[(39)]~~ (40) Subsection 26B-5-609(3)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 661 ~~[(40)]~~ (41) Subsection 26B-5-610(1)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 663 ~~[(41)]~~ (42) Subsection 26B-5-610(2)(b)(ii), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 665 ~~[(42)]~~ (43) Section 26B-5-612, Integrated behavioral health care grant programs, is repealed December 31, 2025.

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- 667 [(43)] (44) Title 26B, Chapter 5, Part 7, Utah Behavioral Health Commission, is repealed July 1, 2029.
- 669 [(44)] (45) Subsection 26B-5-704(2)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 671 [(45)] (46) Subsection 26B-5-704(2)(b), regarding the Education and Mental Health Coordinating Committee, is repealed December 31, 2024.
- 673 [(46)] (47) Title 26B, Chapter 5, Part 8, Utah Substance Use and Mental Health Advisory Committee, is repealed January 1, 2033.
- 675 [(47)] (48) Section 26B-7-119, Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.
- 676 [(48)] (49) Section 26B-7-122, Communication Habits to reduce Adolescent Threats Pilot Program, is repealed July 1, 2029.
- 678 [(49)] (50) Section 26B-7-123, Report on CHAT campaign, is repealed July 1, 2029.
- 679 (51) Subsection 26B-7-505(3)(c), regarding the sale of a premarket authorized or pending electronic cigarette product, is repealed July 1, 2030.
- 681 [(50)] (52) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2026.

Section 9. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates: Title 59.

- 685 (1) Subsection 59-1-403(4)(aa), regarding a requirement for the State Tax Commission to inform the Department of Workforce Services whether an individual claimed a federal earned income tax credit, is repealed July 1, 2029.
- 688 (2) Section 59-7-618.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.
- 690 (3) Section 59-9-102.5, Offset for occupational health and safety related donations, is repealed December 31, 2030.
- 692 (4) Section 59-10-1033.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.
- 694 (5) Subsection 59-14-807(3)(a)(vii), regarding the distribution of fees from Section 59-14-810, is repealed July 1, 2030.
- 696 (6) Section 59-14-810, Electronic cigarette product registry, is repealed July 1, 2030.

Section 10. Section 63I-1-276 is amended to read:

63I-1-276. Repeal dates: Title 76.

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(1) Subsection 76-7-313(6), regarding a report provided by the Department of Health and Human Services, is repealed July 1, 2027.

701 (2) Subsection 76-10-101(16), regarding the definition of premarket authorized or pending electronic cigarette product, is repealed July 1, 2030.

703 (3) Subsection 76-10-113(2), regarding the illegal sale of a flavored electronic cigarette product, is repealed July 1, 2030.

705 (4) Subsection 76-10-113(3), regarding the illegal sale of a premarket authorized or pending electronic cigarette product, is repealed July 1, 2030.

707 [(2)] (5) Section 76-10-526.1, Information check before private sale of firearm, is repealed July 1, 2025.

1152 {~~Section 19. Section 76-10-101 is amended to read: }~~

1153 **76-10-101. Definitions.**

As used in this part:

1155 (1)

(a) "Alternative nicotine product" means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a tobacco product, that:

1158 (i) contains nicotine;

1159 (ii) is intended for human consumption;

1160 (iii) is not purchased with a prescription from a licensed physician; and

1161 (iv) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

1163 (b) "Alternative nicotine product" includes:

1164 (i) pure nicotine;

1165 (ii) snortable nicotine;

1166 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and

1167 (iv) nicotine-laced food and beverage.

1168 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.

1170 (2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette.

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- (3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned under ordinary conditions of use, and consists of:
- 1175 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
- 1176 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).
- 1180 (4)
- (a) "Electronic cigarette" means:
- 1181 (i) any electronic oral device:
- 1182 (A) that provides an aerosol or a vapor of nicotine or other substance; and
- 1183 (B) which simulates smoking through the use or inhalation of the device;
- 1184 (ii) a component of the device described in Subsection (4)(a)(i); or
- 1185 (iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).
- 1187 (b) "Electronic cigarette" includes an oral device that is:
- 1188 (i) composed of a heating element, battery, or electronic circuit; and
- 1189 (ii) marketed, manufactured, distributed, or sold as:
- 1190 (A) an e-cigarette;
- 1191 (B) an e-cigar;
- 1192 (C) an e-pipe; or
- 1193 (D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).
- 1195 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26B-4-201.
- 1197 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.
- 1199 (6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.
- 1201 (7)
- (a) "Flavored electronic cigarette product" means an electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product.

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- 1204 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that is labeled as, or
has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage,
herb, spice, or mint.
- 1207 (c) "Flavored electronic cigarette product" does not include an electronic cigarette product that has a
taste or smell of only tobacco or menthol.
- 1209 (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived
from tobacco or other plants.
- 1211 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.
- 1213 (10)
- (a) "Nontherapeutic nicotine device" means a device that:
- 1214 (i) has a pressurized canister that is used to administer nicotine to the user through inhalation or
intranasally;
- 1216 (ii) is not purchased with a prescription from a licensed physician; and
- 1217 (iii) is not approved by the United States Food and Drug Administration as nicotine replacement
therapy.
- 1219 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic
nicotine nasal spray.
- 1221 (11) "Nontherapeutic nicotine device substance" means a substance that:
- 1222 (a) contains nicotine;
- 1223 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
- 1224 (c) is not purchased with a prescription from a licensed physician; and
- 1225 (d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.
- 1227 (12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic
nicotine device substance, or a prefilled nontherapeutic nicotine device.
- 1229 (13) "Place of business" includes:
- 1230 (a) a shop;
- 1231 (b) a store;
- 1232 (c) a factory;
- 1233 (d) a public garage;
- 1234 (e) an office;
- 1235 (f) a theater;

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- 1236 (g) a recreation hall;
1237 (h) a dance hall;
1238 (i) a poolroom;
1239 (j) a cafe;
1240 (k) a cafeteria;
1241 (l) a cabaret;
1242 (m) a restaurant;
1243 (n) a hotel;
1244 (o) a lodging house;
1245 (p) a streetcar;
1246 (q) a bus;
1247 (r) an interurban or railway passenger coach;
1248 (s) a waiting room; and
1249 (t) any other place of business.
- 1250 (14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an electronic
cigarette substance.
- 1252 (15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold
prefilled with a nontherapeutic nicotine device substance.
- 1254 ~~[(16) "Premarket authorized or pending electronic cigarette product" means an electronic cigarette
product that:]~~
- 1256 ~~[(a)~~
~~(i) has been approved by an order granting a premarket tobacco product application of the electronic
cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(e)~~
~~(1)(A)(i); or]~~
- 1259 ~~[(ii)~~
~~(A) was marketed in the United States on or before August 8, 2016;]~~
- 1260 ~~[(B) the manufacturer submitted a premarket tobacco product application for the electronic cigarette
product to the United States Food and Drug Administration under 21 U.S.C. Sec. 387j on or before
September 9, 2020; and]~~
- 1263

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~~[(C) has an application described in Subsection (16)(a)(ii) that either remains under review by the United States Food and Drug Administration or a final decision on the application has not taken effect; and]~~

1266 ~~[(b) does not exceed:]~~

1267 ~~[(i) 4.0% nicotine by weight per container; or]~~

1268 ~~[(ii) a nicotine concentration of 40 milligrams per milliliter.]~~

1269 ~~[(17)]~~ (16) "Retail tobacco specialty business" means the same as that term is defined in Section 26B-7-501.

1271 ~~[(18)]~~ (17) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

1273 ~~[(19)]~~ (18)

(a) "Tobacco paraphernalia" means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repack, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette substance, or a nontherapeutic nicotine device substance into the human body.

1278 (b) "Tobacco paraphernalia" includes:

1279 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

1281 (ii) water pipes;

1282 (iii) carburetion tubes and devices;

1283 (iv) smoking and carburetion masks;

1284 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;

1286 (vi) chamber pipes;

1287 (vii) carburetor pipes;

1288 (viii) electric pipes;

1289 (ix) air-driven pipes;

1290 (x) chillums;

1291 (xi) bongs; and

1292 (xii) ice pipes or chillers.

1293 (c) "Tobacco paraphernalia" does not include matches or lighters.

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1294 [(20)] (19) "Tobacco product" means:

1295 (a) a cigar;

1296 (b) a cigarette; or

1297 (c) tobacco in any form, including:

1298 (i) chewing tobacco; and

1299 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

1300 [(21)] (20) "Tobacco retailer" means:

1301 (a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or

1302 (b) a retail tobacco specialty business.

1303 {Section 20. Section 76-10-104 is amended to read: }

1304 **76-10-104. Providing a cigar, a cigarette, an electronic cigarette product, a nicotine product, or tobacco to a minor -- Penalties.**

1306 (1) As used in this section "provides":

1307 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1308 (b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.

1312 (2) An individual who knowingly, intentionally, recklessly, or with criminal negligence provides a tobacco product, an electronic cigarette product, or a nicotine product to an individual who is under 21 years old, is guilty of:

1315 (a) a class [C] B misdemeanor on the first offense; and

1316 [(b) a class B misdemeanor on the second offense; and]

1317 [(e)] (b) a class A misdemeanor on any subsequent offense.

1318 (3) This section does not apply to conduct of an employee of a tobacco retailer that is a violation of Section 76-10-114.

1320 {Section 21. Section 76-10-104.1 is amended to read: }

1321 **76-10-104.1. Providing tobacco paraphernalia to a minor -- Penalties.**

1323 (1) As used in this section, "provides":

1324 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

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

1329 (2)

(a) It is unlawful for an individual to knowingly, intentionally, recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under 21 years old.

1332 (b) An individual who violates this section is guilty of:

1333 (i) a class [C] B misdemeanor on the first offense; and

1334 (ii) a class [B] A misdemeanor on any subsequent offense.

1335 ~~{Section 22. Section 76-10-105.1 is amended to read: }~~

1336 **76-10-105.1. Requirement of direct, face-to-face sale of a tobacco product, an electronic cigarette product, or a nicotine product -- Minors not allowed in tobacco specialty shop -- Penalties.**

1339 (1) As used in this section:

1340 (a)

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

1342 (ii) "Face-to-face exchange" does not include a sale through a:

1343 (A) vending machine;~~[-or]~~

1344 (B) self-service display~~[-]~~ ; or

1345 (C) a drive through.

1346 (b) "Retailer" means a person who:

1347 (i) sells a tobacco product, an electronic cigarette product, or a nicotine product to an individual for personal consumption; or

1349 (ii) operates a facility with a vending machine that sells a tobacco product, an electronic cigarette product, or a nicotine product.

1351 (c) "Self-service display" means a display of a tobacco product, an electronic cigarette product, or a nicotine product to which the public has access without the intervention of a retailer or retailer's employee.

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

1356 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

1357 (a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509; or

1359 (b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:

1361 (i) that is distinct and separate from the rest of the facility; and

1362 (ii) where the retailer only allows an individual who complies with Subsection (4) to be present[; ~~or~~].

1364 [~~(e) a sale at a retail tobacco specialty business.~~]

1365 (4) An individual who is under 21 years old may not enter or be present at a retail tobacco specialty business unless the individual is:

1367 [~~(a) accompanied by a parent or legal guardian; or~~]

1368 [~~(b)~~

(i)] (a) present at the retail tobacco specialty business solely for the purpose of providing a service to the retail tobacco specialty business, including making a delivery;

1371 [(ii)] (b) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and

1373 [(iii)] (c) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection [(4)(b)(i)] (4)(a).

1375 [~~(5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual into an area described in Subsection (3)(b) or into a retail tobacco specialty business may not allow the individual to purchase a tobacco product, an electronic cigarette product, or a nicotine product.~~]

1379 [(6)] (5) A violation of Subsection (2) or (4) is a:

1380 (a) class [C] B misdemeanor on the first offense; and

1381 [~~(b) class B misdemeanor on the second offense; and~~]

1382 [~~(e)~~] (b) class A misdemeanor on any subsequent offenses.

1383 [(7) ~~An individual who violates Subsection (5) is guilty of an offense under Section 76-10-104.~~]

1385 {~~Section 23. Section 76-10-111 is amended to read: -~~}

1386 **76-10-111. Restrictions on sale of smokeless tobacco or electronic cigarette products --**
Exceptions.

1388 (1) The Legislature finds that:

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- (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who use those products because research indicates that they may cause mouth or oral cancers;
- 1392 (b) the use of smokeless tobacco among juveniles in this state is [~~increasing rapidly~~] a matter of great concern;
- 1394 (c) the use of electronic cigarette products may lead to unhealthy behavior such as the use of tobacco products; and
- 1396 (d) it is necessary to restrict the gift of the products described in this Subsection (1) in the interest of the health of the citizens of this state.
- 1398 (2)
- (a) Except as provided in Subsection (3), it is unlawful for a manufacturer, wholesaler, and retailer to:
- 1400 (i) give or distribute without charge any smokeless tobacco, chewing tobacco, or electronic cigarette product in this state;
- 1402 (ii) sell, offer for sale, or furnish any electronic cigarette product at less than the cost, including the amount of any applicable tax, of the product to the manufacturer, wholesaler, or retailer; or
- 1405 (iii) give, distribute, sell, offer for sale, or furnish any electronic cigarette product for free or at a lower price because the recipient of the electronic cigarette product makes another purchase.
- 1408 (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection (2)(a)(ii) does not include a discount for:
- 1410 (i) a physical manufacturer coupon:
- 1411 (A) that is surrendered to the wholesaler or retailer at the time of sale; and
- 1412 (B) for which the manufacturer will reimburse the wholesaler or the retailer for the full amount of the discount described in the manufacturer coupon and provided to the purchaser;
- 1415 (ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for the full amount of the rebate provided to the purchaser; or
- 1417 (iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the retailer for the full amount of the promotional fund provided to the purchaser.
- 1419 (c) Any individual who violates this section is guilty of:
- 1420 (i) a class [C] B misdemeanor for the first offense; and
- 1421 (ii) a class [B] A misdemeanor for any subsequent offense.
- 1422 (3) Smokeless tobacco, chewing tobacco, or an electronic cigarette product may be distributed to adults without charge at professional conventions where the general public is excluded.

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1425 ~~{Section 24. Section 76-10-112 is amended to read: }~~

1426 **76-10-112. Prohibition of distribution of a tobacco product -- Exceptions.**

- 1428 (1) Except as provided in Subsection (3), it is unlawful for a manufacturer, wholesaler, or retailer to
give or distribute a tobacco product in this state without charge.
- 1430 (2) An individual who violates this subsection is guilty of:
- 1431 (a) a class [C] B misdemeanor for the first offense; and
- 1432 (b) a class [B] A misdemeanor for any subsequent offense.
- 1433 (3) A tobacco product may be distributed to an adult without charge at a professional convention where
the general public is excluded.
- 1435 (4) The prohibition described in Subsection (1) does not apply to a tobacco retailer, a manufacturer,
or a distributor that gives a tobacco product to an individual who is 21 years old or older upon the
individual's purchase of a tobacco product.

1438 ~~{Section 25. Section 76-10-113 is amended to read: }~~

1439 **76-10-113. Prohibition on distribution of flavored electronic cigarette products --
Prohibition of electronic cigarette products without federal authorization.**

- 1442 (1) ~~[Subject to Subsection (2), it]~~ It is unlawful for a tobacco retailer that is not a retail tobacco
specialty business to give, distribute, sell, offer for sale, or furnish a flavored electronic cigarette
product to any person.
- 1445 ~~[(2) Notwithstanding Subsection (1), and beginning on January 1, 2025, it is unlawful for a person to
give, distribute, sell, offer for sale, or furnish to any person a flavored electronic cigarette product.]~~
- 1448 ~~[(3) Beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer for sale, or
furnish to any person an electronic cigarette product that is not a premarket authorized or pending
electronic cigarette product.]~~
- 1451 ~~[(4)]~~ (2) An individual who violates this section is guilty of:
- 1452 (a) a class [C] B misdemeanor for the first offense; and
- 1453 (b) a class [B] A misdemeanor for any subsequent offense.

1454 ~~{Section 26. Section 76-10-114 is amended to read: }~~

1455 **76-10-114. Unlawful sale of a tobacco product, electronic cigarette product, or nicotine
product.**

- 1457 (1) As used in this section:
- 1458

HB0432S01 compared with HB0432S02

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

1460 (b) "Employee" means an employee or an owner of a tobacco retailer.

1461 (2) It is unlawful for an employee to knowingly or intentionally sell or give a tobacco product, an electronic cigarette product, or a nicotine product in the course of business to an individual who is under 21 years old.

1464 (3) An employee who violates this section is:

1465 (a) on a first violation:

1466 (i) guilty of ~~[an infraction]~~ a class C misdemeanor; and

1467 (ii) subject to:

1468 (A) a fine not exceeding \$1,000; or

1469 (B) compensatory service; or

1470 (b) on any subsequent violation:

1471 (i) guilty of a class ~~[C]~~ B misdemeanor; and

1472 (ii) subject to:

1473 (A) a fine not exceeding \$2,000; or

1474 (B) compensatory service.

709 Section 11. **Effective date.**

1480 (1) Except as provided in Subsection (2), this bill takes effect:

1481 (a) except as provided in Subsection (1)(b), May 7, 2025; or

1482 (b) if approved by two-thirds of all members elected to each house:

1483 (i) upon approval by the governor;

1484 (ii) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

1486 (iii) in the case of a veto, the date of veto override.

1487 (2) The actions affecting { ~~the following sections~~ } Section 63I-1-217 (Effective 07/01/25) take effect on July 1, 2025{~~:~~};

1488 {~~(a) {Section 59-14-901 (Effective 07/01/25);}~~}

1489 {~~(b) {Section 59-14-902 (Effective 07/01/25);}~~}

1490 {~~(c) {Section 59-14-903 (Effective 07/01/25);}~~}

1491 {~~(d) {Section 59-14-904 (Effective 07/01/25);}~~}

HB0432S01 compared with HB0432S02

1492 ~~{(e) {Section 59-14-905 (Effective 07/01/25);}}~~

1493 ~~{(f) {Section 59-14-906 (Effective 07/01/25); and}}~~

1494 ~~{(g) {Section 59-14-907 (Effective 07/01/25);}}~~

718 Section 12. **Coordinating H.B. 432 with S.B. 46.**

If H.B. 432, Tobacco and Electronic Cigarette Modifications, and S.B. 46, Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program Sunset Extension, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 63I-1-259(5) enacted in H.B. 432 be amended to read:

"(5) Subsection 59-14-807(3)(c), regarding the distribution of fees from Section 59-14-810, is repealed July 1, 2030."

725 Section 13. **Coordinating H.B. 432 with H.B. 21.**

If H.B. 432, Tobacco and Electronic Cigarette Modifications, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 63I-1-276(4) enacted in H.B. 432 be amended to read:

"(4) Section 76-9-1115, Illegal distribution of an electronic cigarette product without federal authorization, is repealed July 1, 2030."

Section 29. **Repealer.**

This Bill Repeals:

1477 Section **26A-1-131, (Effective 07/01/24)Electronic cigarette registry enforcement.**

1478 Section **59-14-810, (Effective 07/01/24)Electronic cigarette product registry.**

2-24-25 6:35 PM