

# HB0432S04 compared with HB0432S03

~~{Omitted text}~~ shows text that was in HB0432S03 but was omitted in HB0432S04  
inserted text shows text that was not in HB0432S03 but was inserted into HB0432S04

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

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3                   **LONG TITLE**

4                   **General Description:**

5                   This bill amends provisions related to tobacco and electronic cigarette products.

6                   **Highlighted Provisions:**

7                   This bill:

- 8                   ▸ repeals the ban on flavored electronic cigarette products;
- 9                   ▸ prohibits the sale of flavored electronic cigarette products if they do not meet certain tracking requirements;
- 11                  ▸ modifies the nicotine content limit for electronic cigarette products;
- 12                  ▸ amends provisions related to electronic cigarette product enforcement;
- 13                  ▸ excludes flavored electronic cigarette products from the requirement that electronic cigarette products obtain premarket authorization from the federal Food and Drug Administration;
- 16                  ▸ creates a temporary registry for flavored electronic cigarette products;
- 17                  ▸ modifies the electronic cigarette product registry;
- 18                  ▸ creates a flavored electronic cigarette product registry;
- 19                  ▸

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creates requirements for what type of flavored electronic cigarette products may be sold in the state;

▸ requires the Department of Public Safety to create systems to improve enforcement of tobacco and electronic cigarette laws;

▸ creates penalties for general retail tobacco businesses that sell flavored electronic cigarette products;

▸ raises permit fees for general tobacco retailers;

▸ for retail tobacco specialty businesses:

- raises permit fees;

- creates identification scanning requirements; and

- creates surveillance footage requirements;

▸ creates a tobacco handling permit for retail tobacco specialty business employees and operators;

▸ creates a tax on flavored electronic cigarette products;

▸ amends criminal penalties regarding the illegal sale of tobacco and electronic cigarette products;

▸ creates a criminal penalty for the use of certain flavored electronic cigarettes;

▸ prohibits retail tobacco specialty businesses from selling a product containing nicotine to a restricted nicotine individual;

▸ requires the court to designate an individual as a nicotine restricted individual if the individual is convicted of providing certain products containing nicotine to a minor; and

▸ includes a coordination clause with H.B. 21, Criminal Code Recodification and Cross References, to ensure the policy changes made in this bill are accurately reflected if both bills pass.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

This bill provides a special effective date.

This bill provides a coordination clause.

### **AMENDS:**

**10-8-41.6 (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

**17-50-333 (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

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54       **26B-7-501 (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

56       **26B-7-505 (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

58       **26B-7-509 (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

60       **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

62       **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

64       **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

66       **53-1-106** ~~**{(Effective upon governor's approval)}**~~**(Effective 12/31/24) (Effective upon**  
**governor's approval)**, as last amended by Laws of Utah 2024, Chapter 506 ~~**{(Effective upon**~~  
~~**governor's approval)}**~~**(Effective 12/31/24) (Effective upon governor's approval)**, as last  
amended by Laws of Utah 2024, Chapter 506

68       **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

70       **59-14-810 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024, Chapter  
470 **(Effective upon governor's approval)**, as enacted by Laws of Utah 2024, Chapter 470

72       **63I-2-226** ~~**{(Effective upon governor's approval)}**~~**(Effective 07/01/24) (Effective upon**  
**governor's approval)**, as last amended by Laws of Utah 2024, Third Special Session, Chapter  
5 ~~**{(Effective upon governor's approval)}**~~**(Effective 07/01/24) (Effective upon governor's**  
**approval)**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

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**63I-2-259** ~~{(Effective upon governor's approval)}~~(Effective 06/21/24), as last amended by Laws of Utah 2024, Third Special Session, Chapter 5 ~~{(Effective upon governor's approval)}~~(Effective 06/21/24), as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

**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

**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

**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

**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

**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

**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

**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

**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:

**26B-7-505.1** (Effective upon governor's approval), Utah Code Annotated 1953 (Effective upon governor's approval), Utah Code Annotated 1953

**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 01/01/26), Utah Code Annotated 1953 (Effective 01/01/26), Utah Code Annotated 1953

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96 **59-14-902 (Effective 01/01/26)**, Utah Code Annotated 1953 (**Effective 01/01/26**), Utah Code  
Annotated 1953

97 **59-14-903 (Effective 01/01/26)**, Utah Code Annotated 1953 (**Effective 01/01/26**), Utah Code  
Annotated 1953

98 **59-14-904 (Effective 01/01/26)**, Utah Code Annotated 1953 (**Effective 01/01/26**), Utah Code  
Annotated 1953

99 **59-14-905 (Effective 01/01/26)**, Utah Code Annotated 1953 (**Effective 01/01/26**), Utah Code  
Annotated 1953

100 **59-14-906 (Effective 01/01/26)**, Utah Code Annotated 1953 (**Effective 01/01/26**), Utah Code  
Annotated 1953

101 **59-14-907 (Effective 01/01/26)**, Utah Code Annotated 1953 (**Effective 01/01/26**), Utah Code  
Annotated 1953

102 **59-14-908 (Effective 01/01/26)**, Utah Code Annotated 1953 (**Effective 01/01/26**), Utah Code  
Annotated 1953

103 **76-10-113.1 (Effective upon governor's approval)**, Utah Code Annotated 1953 (**Effective upon**  
**governor's approval**), Utah Code Annotated 1953

104 **76-10-113.2 (Effective upon governor's approval)**, Utah Code Annotated 1953 (**Effective upon**  
**governor's approval**), Utah Code Annotated 1953

105 REPEALS:

106 **26A-1-131 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024, Chapter  
470 (**Effective upon governor's approval**), as enacted by Laws of Utah 2024, Chapter 470

108 **Utah Code Sections affected by Coordination Clause:**

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

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

112 **10-8-41.6. (Effective upon governor's approval)Regulation of retail tobacco specialty**  
**business.**

114 (1) As used in this section:

115 (a) "Community location" means:

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

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

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- 118 (iii) a trade or technical school;  
119 (iv) a church;  
120 (v) a public library;  
121 (vi) a public playground;  
122 (vii) a public park;  
123 (viii) a youth center or other space used primarily for youth oriented activities;  
124 (ix) a public recreational facility;  
125 (x) a public arcade; or  
126 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 127 (b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.  
129 (c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.  
131 (d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.  
133 ~~[(d)]~~ (e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco  
specialty business.
- 135 ~~[(e)]~~ (f) "Local health department" means the same as that term is defined in Section 26A-1-102.  
137 ~~[(f)]~~ (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.  
138 ~~[(g)]~~ (h) "Retail tobacco specialty business" means a commercial establishment in which:  
139 (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;  
142 (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;  
144 (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;  
146 (iv) the commercial establishment:  
147 (A) holds itself out as a retail tobacco specialty business; and  
148 (B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty  
business;~~[-or]~~
- 150 (v) the retail space features a self-service display for tobacco products, electronic cigarette products, or  
nicotine products~~[-]~~ ; or  
152 (vi) any flavored electronic cigarette product is sold.  
153 ~~[(h)]~~ (i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

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- 155     ~~[(i)]~~ (j) "Tobacco product" means:
- 156     (i) a tobacco product as defined in Section 76-10-101; or
- 157     (ii) tobacco paraphernalia as defined in Section 76-10-101.
- 158     (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.
- 161     (3)
- 161     (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.
- 164     (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).
- 166     (4)
- 166     (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:
- 169     (i) 1,000 feet of a community location;
- 170     (ii) 600 feet of another retail tobacco specialty business; or
- 171     (iii) 600 feet from property used or zoned for:
- 172     (A) agriculture use; or
- 173     (B) residential use.
- 174     (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.
- 178     (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:
- 181     (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
- 185     (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
- 188 (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.
- 191 (6)
- (a) Nothing in this section:
  - 192 (i) requires a municipality to issue a retail tobacco specialty business license; or
  - 193 (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.
- 196 (b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:
  - 198 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
  - 200 (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;
  - 203 (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
  - 206 (iv) under any other provision of state law or local ordinance.
- 207 (7)
- (a) A retail tobacco specialty business is exempt from Subsection (4) if:
  - 208 (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;
  - 210 (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
  - 212 (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.
- 215 (b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:
  - 217 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

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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;
- 222 (iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and
- 224 (iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:
  - 226 (A) Section 26B-7-503;
  - 227 (B) zoning ordinances;
  - 228 (C) building codes; and
  - 229 (D) the requirements of the license described in Subsection (7)(a)(i).
- 230 (c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:
  - 232 (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;
  - 237 (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
  - 239 (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.
- 242 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:
  - 244 (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;
  - 247 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;
  - 249 (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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- 252 (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
- 255 (v) the retail tobacco specialty business maintains the right to operate under the terms of other  
applicable laws, including:
- 257 (A) Section 26B-7-503;
- 258 (B) zoning ordinances;
- 259 (C) building codes; and
- 260 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- 261 (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:
- 265 (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
- 269 (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).
- 271 Section 2. Section **17-50-333** is amended to read:
- 272 **17-50-333. (Effective upon governor's approval)Regulation of retail tobacco specialty**  
**business.**
- 274 (1) As used in this section:
- 275 (a) "Community location" means:
- 276 (i) a public or private kindergarten, elementary, middle, junior high, or high school;
- 277 (ii) a licensed child-care facility or preschool;
- 278 (iii) a trade or technical school;
- 279 (iv) a church;
- 280 (v) a public library;
- 281 (vi) a public playground;
- 282 (vii) a public park;
- 283 (viii) a youth center or other space used primarily for youth oriented activities;
- 284 (ix) a public recreational facility;

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- 285 (x) a public arcade; or
- 286 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 287 (b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.
- 289 (c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 291 (d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 293 ~~[(d)]~~ (e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.
- 295 ~~[(e)]~~ (f) "Local health department" means the same as that term is defined in Section 26A-1-102.
- 297 ~~[(f)]~~ (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 298 ~~[(g)]~~ (h) "Retail tobacco specialty business" means a commercial establishment in which:
- 299 (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;
- 302 (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;
- 304 (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;
- 306 (iv) the commercial establishment:
- 307 (A) holds itself out as a retail tobacco specialty business; and
- 308 (B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;~~[-or]~~
- 310 (v) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products~~[-]~~ ; or
- 312 (vi) any flavored electronic cigarette product is sold.
- 313 ~~[(h)]~~ (i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.
- 315 ~~[(i)]~~ (j) "Tobacco product" means:
- 316 (i) the same as that term is defined in Section 76-10-101; or
- 317 (ii) tobacco paraphernalia as defined in Section 76-10-101.
- 318 (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.
- 321 (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.

(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).

(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:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(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.

(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:

(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

(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

(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.

(6)

(a) Nothing in this section:

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- 352 (i) requires a county to issue a retail tobacco specialty business license; or  
353 (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.
- 356 (b) A county may suspend or revoke a retail tobacco specialty business license issued under this  
section:
- 358 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of  
Unlawful Activity Act;
- 360 (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;
- 363 (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
- 366 (iv) under any other provision of state law or local ordinance.
- 367 (7)
- (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is exempt from  
Subsection (4) if:
- 369 (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;
- 371 (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
- 373 (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.
- 376 (b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:
- 378 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent  
revocation;
- 380 (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;
- 383 (iii) the retail tobacco specialty business does not substantially change the business premises or business  
operation; and
- 385 (iv) the retail tobacco specialty business maintains the right to operate under the terms of other  
applicable laws, including:

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- 387 (A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;
- 388 (B) zoning ordinances;
- 389 (C) building codes; and
- 390 (D) the requirements of the license described in Subsection (7)(a)(i).
- 391 (c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is  
exempt from Subsection (4) if:
- 393 (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;
- 399 (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
- 401 (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.
- 404 (d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:
- 406 (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;
- 409 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent  
revocation;
- 411 (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;
- 414 (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
- 417 (v) the retail tobacco specialty business maintains the right to operate under the terms of other  
applicable laws, including:
- 419 (A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;
- 420 (B) zoning ordinances;

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- 421 (C) building codes; and
- 422 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- 423 (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:
- 427 (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
- 431 (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).
- 433 Section 3. Section **26B-7-501** is amended to read:
- 434 **26B-7-501. (Effective upon governor's approval)Definitions.**
- As used in this part:
- 436 (1) "Community location" means the same as that term is defined:
- 437 (a) as it relates to a municipality, in Section 10-8-41.6; and
- 438 (b) as it relates to a county, in Section 17-50-333.
- 439 (2) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.
- 440 (3) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 442 (4) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.
- 444 (5) "Employee" means an employee of a tobacco retailer.
- 445 (6) "Enforcing agency" means the department, or any local health department enforcing the provisions  
of this part.
- 447 (7) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 449 [(7)] (8) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty  
business.
- 451 [(8)] (9) "Local health department" means the same as that term is defined in Section 26A-1-102.
- 453 [(9)] (10) "Manufacture" includes:
- 454 (a) to cast, construct, or make electronic cigarettes; or
- 455 (b) to blend, make, process, or prepare an electronic cigarette substance.
- 456 [(10)] (11) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance  
that is sold in a container that:

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- 458 (a) is prefilled by the electronic cigarette substance manufacturer; and  
459 (b) the electronic cigarette manufacturer does not intend for a consumer to open.
- 460 ~~[(11)]~~ (12) "Manufacturer sealed electronic cigarette product" means:  
461 (a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not  
intend for a consumer to open or refill; or  
463 (b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.
- 464 ~~[(12)]~~ (13) "Nicotine" means the same as that term is defined in Section 76-10-101.  
465 ~~[(13)]~~ (14) "Nicotine product" means the same as that term is defined in Section 76-10-101.  
466 (15) "Nicotine restricted individual" means the same as that term is defined in Section 76-10-101.
- 468 ~~[(14)]~~ (16) "Non-tobacco shisha" means any product that:  
469 (a) does not contain tobacco or nicotine; and  
470 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 471 ~~[(15)]~~ (17) "Owner" means a person holding a 20% ownership interest in the business that is required to  
obtain a permit under this part.
- 473 ~~[(16)]~~ (18) "Permit" means a tobacco retail permit issued under Section 26B-7-507.
- 474 ~~[(17)]~~ (19) "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:  
479 (a) buildings, offices, shops, elevators, or restrooms;  
480 (b) means of transportation or common carrier waiting rooms;  
481 (c) restaurants, cafes, or cafeterias;  
482 (d) taverns as defined in Section 32B-1-102, or cabarets;  
483 (e) shopping malls, retail stores, grocery stores, or arcades;  
484 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or  
arenas;  
486 (g) barber shops, hair salons, or laundromats;  
487 (h) sports or fitness facilities;  
488 (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;

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- 492 (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
- 495 (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;
- 498 (k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;
- 500 (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;
- 503 (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;
- 506 (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;
- 508 (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
- 510 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.
- 511 ~~[(18)]~~ (20)
- (a) "Proof of age" means:
- 512 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;
- 514 (ii) a valid identification that:
- 515 (A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;
- 517 (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
- 519 (C) includes date of birth; and
- 520 (D) has a picture affixed;
- 521 (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;
- 524 (iv) a valid United States military identification card that:
- 525 (A) includes date of birth; and

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- 526 (B) has a picture affixed; or  
527 (v) a valid passport.
- 528 (b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section  
530 53-3-207.
- 530 [(19)] (21) "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.
- 534 [(20)] (22) "Retail tobacco specialty business" means the same as that term is defined:  
535 (a) as it relates to a municipality, in Section 10-8-41.6; and  
536 (b) as it relates to a county, in Section 17-50-333.
- 537 [(21)] (23) "Shisha" means any product that:  
538 (a) contains tobacco or nicotine; and  
539 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 540 [(22)] (24) "Smoking" means:  
541 (a) the possession of any lighted or heated tobacco product in any form;  
542 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that  
contains:  
544 (i) tobacco or any plant product intended for inhalation;  
545 (ii) shisha or non-tobacco shisha;  
546 (iii) nicotine;  
547 (iv) a natural or synthetic tobacco substitute; or  
548 (v) a natural or synthetic flavored tobacco product;  
549 (c) using an electronic cigarette; or  
550 (d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.
- 552 [(23)] (25) "Tax commission license" means a license issued by the State Tax Commission under:  
554 (a) Section 59-14-201 to sell a cigarette at retail;  
555 (b) Section 59-14-301 to sell a tobacco product at retail; or  
556 (c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.
- 557 [(24)] (26) "Tobacco product" means:  
558 (a) a tobacco product as defined in Section 76-10-101; or

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- 559 (b) tobacco paraphernalia as defined in Section 76-10-101.
- 560 [~~(25)~~] (27) "Tobacco retailer" means a person that is required to obtain a tax commission license.
- 562 Section 4. Section **26B-7-505** is amended to read:
- 563 **26B-7-505. (Effective upon governor's approval)Electronic cigarette products -- Labeling --**  
**Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.**
- 566 (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:
- 570 (a) labeling;
- 571 (b) nicotine content;
- 572 (c) packaging; and
- 573 (d) product quality.
- 574 (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:
- 578 (a) labeling;
- 579 [~~(b) nicotine content;~~]
- 580 [~~(c)~~] (b) packaging; and
- 581 [~~(d)~~] (c) product quality.
- 582 (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).
- 585 (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).
- 588 (c) A product described in Subsection (2) may not exceed:
- 589 (i) 5% nicotine by weight per container; or
- 590 (ii) a nicotine concentration of 59 milligrams per milliliter.
- 591

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[~~(e)~~] (d) Notwithstanding Subsections (3)(a) and (3)(b), beginning on January 1, 2025, a [~~person~~] general tobacco retailer 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~~] on the registry described in Section 59-14-810.

595 (e) Notwithstanding Subsections (3)(a) and (3)(b), beginning on May 1, 2025, a retail tobacco specialty business may not sell an electronic cigarette product that is not on a registry described in Section 26B-7-505.1, 59-14-810, or 59-14-908.

598 (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).

602 (b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.

604 (c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette product.

606 (5) A person may not advertise an electronic cigarette product as a tobacco cessation device.

607 (6)

(a) Any nicotine product shall contain the statement described in Subsection (6)(b) if the nicotine product:

609 (i)

(A) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal regulations; or

611 (B) is not otherwise required under federal or state law to contain a nicotine warning; and

613 (ii) contains nicotine.

614 (b) A statement shall appear on the exterior packaging of a nicotine product described in Subsection (6) (a) as follows:

616 "This product contains nicotine."

617 (7)

(a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements for a flavored electronic cigarette product to be sold in the state and listed on the registry described in Section 59-14-908.

621

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(b) The department shall ensure that rules made under this Subsection (7) allow for the sale of a flavored electronic cigarette product.

(c) A flavored electronic cigarette product may not be sold in this state if:

(i) the product contains or is marketed as containing a flavoring other than:

(A) a fruit flavoring not including chocolate;

(B) an herb flavoring; or

(C) a spice flavoring; or

(ii)

(A) the product's final assembly is done outside the United States; or

(B) the product does not have federal authorization to be sold in the United States.

(d) A flavored electronic cigarette product's packaging that contains any other information, text, or imagery not described in Subsection (7)(e) may not be sold in the state.

(e) A flavored electronic cigarette product may be sold in the state if the product's outside packaging only contains:

(i) the name of the product;

(ii) a single logo of the product's manufacturer; and

(iii) the information required by:

(A) this section;

(B) rules made under this section; and

(C) federal law; and

(iv) flavor descriptions that describe the fruit, herb, or spice flavor profile the product is attempting to replicate without additional superlatives or intensifiers.

(f) When conducting a review of a flavored electronic cigarette product for inclusion in the registry described in Section 59-14-908, the department may request samples of the product's packaging to ensure compliance with this section.

Section 5. Section 5 is enacted to read:

### **26B-7-505.1. Temporary flavored electronic cigarette product registry.**

(1) The department shall create a publicly available temporary flavored electronic cigarette registry on or before May 1, 2025.

(2) The registry shall consist of flavored electronic cigarette products that:

(a)

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- (i) the final assembly of the product occurs in the United States; or
- 653 (ii) the product has federal authorization to be sold in the United States; and
- 654 (b) contain or are marketed as containing only the following types of flavorings:
- 655 (i) a fruit flavoring not including chocolate;
- 656 (ii) an herb flavoring; or
- 657 (iii) a spice flavoring; and
- 658 (c) the packaging does not:
- 659 (i) contain any likeness bearing resemblance to a cartoon character or fictional character; or
- 661 (ii) appear to imitate a food or other product trademark or trade dress that are or have been primarily  
marketed to children.
- 663 (3) The department shall make rules to implement this section.
- 664 (4)
- (a) The department shall charge a fee for a flavored electronic cigarette product to be listed on the  
registry.
- 666 (b) A retailer, distributor, or manufacturer may pay the fee to have the product registered.
- 667 (5) The department shall close and remove all products from the temporary registry when the registry  
described in Section {~~58-14-908~~} 59-14-908 is operational.
- 669 Section 6. Section **26B-7-509** is amended to read:
- 670 **26B-7-509. Permit term and fees.**
- 671 (1)
- (a) The term of a permit issued to a retail tobacco specialty business is one year.
- 672 (b) The term of a permit issued to a general tobacco retailer is two years.
- 673 (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:
- 675 (i) [~~\$30~~] \$500 for a new permit;
- 676 (ii) [~~\$20~~] \$475 for a permit renewal; or
- 677 (iii) [~~\$30~~] \$500 for reinstatement of a permit that has been revoked, suspended, or allowed to  
expire.
- 679

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(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-7-523.

(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.

(d)

(i) Notwithstanding Subsection (2)(a), a permit renewal for a retail tobacco specialty business in fiscal year {2025} 2026 is \$10,000.

(ii) Each local health department shall transfer a renewal fee described in Subsection (2)(d)(i) to the State Tax Commission to be used for programing and system updates for the tax described in Section 59-14-904.

(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.

(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:

(a) the information required in Subsection 26B-7-508(3) and, if applicable, Subsection 26B-7-508(4);

(b) the fee for the reinstatement of a permit; and

(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.

Section 7. Section **26B-7-511** is amended to read:

**26B-7-511. (Effective upon governor's approval)Permit requirements for a retail tobacco specialty business -- Tobacco handling permit.**

(1) A retail tobacco specialty business shall:

(a) electronically verify proof of age for any individual that enters the premises of the business in accordance with Section 26B-7-521;

(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~~

(c) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates:

(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

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- 711 (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
- 714 (d) implement security standards that include an electronic video monitoring system with:
- 716 (i) at least one 19-inch or greater call-up monitor;
- 717 (ii) a printer, capable of producing a clear still photo from any video camera image;
- 718 (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:
- 722 (A) all points of entry; and
- 723 (B) each point-of-sale;
- 724 (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;
- 726 (v) a surveillance system with:
- 727 (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
- 730 (B) a storage system on a remote server which has restricted access to protect from tampering;
- 732 (vi) a failure notification system that provides an audible or visual notification of an error within the  
electronic monitoring system; and
- 734 (vii) a date and time stamp embedded on video camera recordings; and
- 735 (e) place a sign in a publicly viewable area that notifies patrons that the patrons are under surveillance.
- 737 (2) A retail tobacco specialty business may not:
- 738 (a) employ an individual under 21 years old to sell a tobacco product, an electronic cigarette product, or  
a nicotine product;[-or]
- 740 (b) permit an employee under 21 years old to sell a tobacco product, an electronic cigarette product, or a  
nicotine product[-] ; or
- 742 (c) employ an individual that does not have a tobacco handling permit described in Subsection (3).
- 744 (3)
- (a) An employee, owner, or operator of a retail tobacco specialty business shall obtain and maintain a  
tobacco handling permit.
- 746 (b) The department shall:

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- 747 (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;
- 749 (ii) issue a tobacco handling permit to any individual who completes the training; and
- 750 (iii) establish a fee in accordance with Section 63J-1-504 to implement this Subsection (3).
- 752 (c) A tobacco handling permit expires one year from the day the tobacco handling permit is issued.
- 754 Section 8. Section **26B-7-518** is amended to read:
- 755 **26B-7-518. (Effective upon governor's approval)Penalties.**
- 756 (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.
- 759 (b) [H] Except as provided in Subsections (1)(c) and (1)(d), 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), and (7).
- 764 (c) Fines described in Subsections (4)(a)(ii), (4)(b)(ii), (7)(a)(ii), and (7)(b)(ii) shall compound for each product sold including if products are sold to multiple individuals.
- 766 (d) If an investigation determines there is a violation of Subsections (3) and (7), the enforcing agency shall assess all penalties described in Subsections (3) and (7) individually.
- 769 (2) Except as provided in Subsections (3), [and](4), and (7), 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:
- 772 (a) on a first violation at a retail location, impose a penalty of \$1,000;
- 773 (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;
- 775 (c) on a third violation at the same retail location that occurs within two years after two previous violations, impose:
- 777 (i) a suspension of the permit for 30 consecutive business days within 60 days after the day on which the third violation occurs; or
- 779 (ii) a penalty of \$2,000; and
- 780 (d) on a fourth or subsequent violation within two years of three previous violations:
- 781 (i) impose a penalty of \$2,000;

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- 782 (ii) revoke a permit of the retailer; and
- 783 (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.
- 786 (3) If ~~[a violation is found in an investigation of]~~ 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:
- 791 (a) on a first violation, impose a fine of \$2,000 on the general tobacco retailer; and
- 792 (b) on the second violation for the same general tobacco retailer within one year of the first violation:
- 794 (i) impose a fine of \$5,000; and
- 795 (ii) revoke the permit for the general tobacco retailer.
- 796 (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:
- 800 (a) on the first violation:
- 801 (i) impose a fine of ~~[\$5,000]~~ \$10,000; ~~and~~
- 802 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and
- 803 ~~[(ii)]~~ (iii) immediately suspend the permit for 30 consecutive days; and
- 804 (b) on the second violation at the same retail location within two years of the first violation:
- 806 (i) impose a fine of ~~[\$10,000]~~ \$20,000; ~~and~~
- 807 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and
- 808 ~~[(ii)]~~ (iii) revoke the permit for the retail tobacco specialty business.
- 809 (5)
- (a) Except when a transfer described in Subsection (6) occurs, a local health department may not issue a permit to:
- 811 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3); or
- 813 (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).

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- 816 (b) A person whose permit:
- 817 (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
- 820 (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.
- 823 (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:
- 825 (a) the tobacco retailer is transferred to a new proprietor; and
- 826 (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.
- 829 (7) If a general tobacco retailer is found to be selling a flavored electronic cigarette product, the
- enforcing agency shall:
- 831 (a) on the first violation:
- 832 (i) impose a fine of \$10,000;
- 833 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and
- 834 (iii) immediately suspend the permit for 30 consecutive days; and
- 835 (b) on the second violation at the same retail location within two years of the first violation:
- 837 (i) impose a fine of \$20,000;
- 838 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and
- 839 (iii) revoke the permit for the general tobacco retailer.
- 840 (8)
- (a) Only a law enforcement agency may conduct an investigation or inspection of a retail tobacco
- specialty business for violations of this part.
- 842 (b) A local health department may levy a fine described in this section against a retail tobacco specialty
- business if a law enforcement agency investigation or inspection finds a violation of this part.
- 845 Section 9. Section **26B-7-521** is amended to read:
- 846 **26B-7-521. (Effective upon governor's approval) Verification of proof of age -- Verification**
- of identification -- Notification of law enforcement.**
- 848 (1) As used in this section:
- 849 (a) "Employee" means an employee of a retail tobacco specialty business.
- 850

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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.

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

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

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

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

(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.

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

(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:

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

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

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

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

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

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

(vii) capture a real time image of the individual presenting the proof of identification; and

(viii) communicate with the system created by the Department of Public Safety regarding whether a purchaser is a nicotine restricted individual.

(d) A retail tobacco specialty business may not sell a tobacco product, nicotine product, or electronic cigarette product to a nicotine restricted individual.

(e) A retail tobacco specialty business shall notify the Department of Public Safety when an individual purchases more than 10 electronic cigarette products in a single purchase.

(5)

## HB0432S03 compared with HB0432S04

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

(b) Information obtained under this section:

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

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

(6)

(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 10. Section **10** is enacted to read:

**26B-7-523. (Effective upon governor's approval)RFID tracking.**

(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.

## HB0432S03 compared with HB0432S04

(3) The inventory control system shall have an RFID tag directly attached to the flavored electronic cigarette product 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:

(i) is affixed directly on the product;

(ii) not affixed to any packaging; and

(iii) can be clearly read and include the following information:

(A) a unique identification number;

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

(C) the date of sale of the flavored electronic cigarette product.

(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.

(5) Notwithstanding any other provision of law and beginning May 15, 2026, a flavored electronic cigarette product may not be sold in the state if the product does not meet the RFID requirements of this section.

Section 11. Section **53-1-106** is amended to read:

**53-1-106. ~~{(Effective upon governor's approval)}~~(Effective 12/31/24) (Effective upon governor's approval)**Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Division of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

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- 950 (e) provide assistance to the Commission on Criminal and Juvenile Justice and the Utah Office for  
Victims of Crime in conducting research or monitoring victims' programs, as required by Section  
63M-7-507;
- 953 (f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;
- 955 (g) engage in emergency planning activities, including preparation of policy and procedure and  
rulemaking necessary for implementation of the federal Emergency Planning and Community Right  
to Know Act of 1986, as required by Section 53-2a-702;
- 959 (h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact;
- 961 (i) ensure that any training or certification required of a public official or public employee, as those  
terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and  
Certification Requirements, if the training or certification is required:
- 965 (i) under this title;
- 966 (ii) by the department; or
- 967 (iii) by an agency or division within the department;
- 968 (j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of  
Education who shall work with the State Board of Education to:
- 970 (i) support training with relevant state agencies for school resource officers as described in Section  
53G-8-702;
- 972 (ii) coordinate the creation of model policies and memorandums of understanding for a local education  
agency and a local law enforcement agency; and
- 974 (iii) ensure cooperation between relevant state agencies, a local education agency, and a local law  
enforcement agency to foster compliance with disciplinary related statutory provisions, including  
Sections 53E-3-516 and 53G-8-211;
- 977 (k) provide for the security and protection of public officials, public officials' staff, and the capitol hill  
complex in accordance with the provisions of this part;
- 979 (l) fulfill the duties described in Sections 77-36-2.1 and 78B-7-120 related to lethality assessments;[  
and]
- 981 (m) fulfill the duties described in Section 63L-13-201 related to restricted foreign entities[-] ; and
- 983 (n) create a system that notifies a retail tobacco specialty business that an individual is a nicotine  
restricted individual when the individual attempts to purchase a tobacco product, nicotine product,  
or electronic cigarette product.

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986 (2)

(a) The department shall establish a schedule of fees as required or allowed in this title for services provided by the department.

988 (b) All fees not established in statute shall be established in accordance with Section 63J-1-504.

990 (3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26B-8-319.

992 Section 12. Section **59-14-102** is amended to read:

993 **59-14-102. (Effective upon governor's approval)Definitions.**

As used in this chapter:

995 (1) "Alternative nicotine product" means the same as that term is defined in Section 76-10-101.

997 (2) "Cigarette" means a roll made wholly or in part of tobacco:

998 (a) regardless of:

999 (i) the size of the roll;

1000 (ii) the shape of the roll;

1001 (iii) whether the tobacco is flavored, adulterated, or mixed with any other ingredient; or

1003 (iv) whether the tobacco is heated or burned; and

1004 (b) if the roll has a wrapper or cover that is made of paper or any other substance or material except tobacco.

1006 (3) "Cigarette rolling machine" means a device or machine that has the capability to produce at least 150 cigarettes in less than 30 minutes.

1008 (4) "Cigarette rolling machine operator" means a person who:

1009 (a)

(i) controls, leases, owns, possesses, or otherwise has available for use a cigarette rolling machine; and

1011 (ii) makes the cigarette rolling machine available for use by another person to produce a cigarette; or

1013 (b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.

1014 (5) "Consumer" means a person that is not required:

1015 (a) under Section 59-14-201 to obtain a license under Section 59-14-202;

1016 (b) under Section 59-14-301 to obtain a license under Section 59-14-202;~~[-or]~~

1017 (c) to obtain a license under Section 59-14-803~~[-]~~ ; or

1018 (d) to obtain a license under Section 59-14-902.

1019 (6) "Counterfeit cigarette" means:

## HB0432S03 compared with HB0432S04

- 1020 (a) a cigarette that has a false manufacturing label; or
- 1021 (b) a package of cigarettes bearing a counterfeit tax stamp.
- 1022 (7)
- (a) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.
- 1023 (b) "Electronic cigarette" does not include a cigarette or a tobacco product.
- 1024 (8) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 1026 (9) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.
- 1028 (10) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 1030 ~~[(10)]~~ (11) "Importer" means a person that imports into the United States, either directly or indirectly, a finished cigarette for sale or distribution.
- 1032 ~~[(11)]~~ (12) "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.
- 1035 ~~[(12)]~~ (13) "Little cigar" means a roll for smoking that:
- 1036 (a) is made wholly or in part of tobacco;
- 1037 (b) uses an integrated cellulose acetate filter or other similar filter; and
- 1038 (c) is wrapped in a substance:
- 1039 (i) containing tobacco; and
- 1040 (ii) that is not exclusively natural leaf tobacco.
- 1041 ~~[(13)]~~ (14)
- (a) Except as provided in Subsection ~~[(13)(b)]~~ (14)(b), "manufacturer" means a person that:
- 1043 (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or
- 1044 (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels, repackages, relabels, or imports an electronic cigarette product or a nicotine product.
- 1047 (b) "Manufacturer" does not include a cigarette rolling machine operator.
- 1048 ~~[(14)]~~ (15) "Moist snuff" means tobacco that:
- 1049 (a) is finely cut, ground, or powdered;
- 1050 (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;
- 1052 (c) is not intended to be:
- 1053 (i) smoked; or

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- 1054 (ii) placed in the nasal cavity; and
- 1055 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or distributed in  
single-use units, including:
- 1057 (i) tablets;
- 1058 (ii) lozenges;
- 1059 (iii) strips;
- 1060 (iv) sticks; or
- 1061 (v) packages containing multiple single-use units.
- 1062 ~~[(15)]~~ (16) "Nicotine" means the same as that term is defined in Section 76-10-101.
- 1063 ~~[(16)]~~ (17) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 1064 ~~[(17)]~~ (18) "Nontherapeutic nicotine device" means the same as that term is defined in Section  
76-10-101.
- 1066 ~~[(18)]~~ (19) "Nontherapeutic nicotine device substance" means the same as that term is defined in  
Section 76-10-101.
- 1068 ~~[(19)]~~ (20) "Nontherapeutic nicotine product" means the same as that term is defined in Section  
76-10-101.
- 1070 ~~[(20)]~~ (21) "Prefilled electronic cigarette" means the same as that term is defined in Section 76-10-101.
- 1072 ~~[(21)]~~ (22) "Prefilled nontherapeutic nicotine device" means the same as that term is defined in Section  
76-10-101.
- 1074 ~~[(22)]~~ (23) "Retailer" means a person that:
- 1075 (a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product to a consumer in  
the state; or
- 1077 (b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine product to a  
consumer in the state.
- 1079 ~~[(23)]~~ (24) "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.
- 1081 ~~[(24)]~~ (25)
- (a) "Tobacco product" means a product made of, or containing, tobacco.
- 1082 (b) "Tobacco product" includes:
- 1083 (i) a cigarette produced from a cigarette rolling machine;
- 1084 (ii) a little cigar; or

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- 1085 (iii) moist snuff.
- 1086 (c) "Tobacco product" does not include a cigarette.
- 1087 [~~(25)~~] (26) "Tribal lands" means land held by the United States in trust for a federally recognized Indian  
tribe.
- 1089 Section 13. Section **59-14-810** is amended to read:
- 1090 **59-14-810. Electronic cigarette product registry.**
- 1092 (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:
- 1096 (a) the manufacturer agrees to comply with this section; and
- 1097 (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.
- 1100 (2) When submitting the certification a manufacturer shall submit a form that separately lists each  
electronic cigarette product that is sold in this state.
- 1102 (3)
- 1103 (a) Each certification form shall include:
- 1105 (i) the name of the electronic cigarette product, nicotine content level by percentage, and any  
flavors contained in the product;
- (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
- 1108 (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;
- 1112 (iii) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added to the registry  
in the first instance; and
- 1114 (iv) information described in Subsection (10) if applicable.
- 1115 (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.

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- 1117 (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:
- 1121 (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
- 1123 (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.
- 1127 (d) On or before January 31 of each year and in a manner prescribed by the commission, a manufacturer  
shall:
- 1129 (i) recertify that the information contained in the certification is correct and accurate;
- 1130 (ii) correct or amend information if necessary; and
- 1131 (iii) pay a \$250 nonrefundable fee for each electronic cigarette product on the registry that is  
manufactured by the manufacturer.
- 1133 (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.
- 1135 (f) The commission shall:
- 1136 (i) provide an electronic notification to a manufacturer that has not submitted a recertification under  
Subsection (3)(d); and
- 1138 (ii) remove a manufacturer or an electronic cigarette product that is not recertified from the registry by  
March 15.
- 1140 (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.
- 1143 (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.

1147

## HB0432S03 compared with HB0432S04

(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.

1150 (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.

1155 (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]~~ a flavored electronic cigarette product or manufacturer from the registry.

1159 (c) Subsection (5)(b) does not apply to a manufacturer failing:

1160 (i) to ~~[decertify]~~ recertify an electronic cigarette product;

1161 (ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or

1162 (iii) to comply with Subsection (10).

1163 (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.

1167 (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~~].

1171 (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]~~ a registry created under this section, Section 26B-7-505.1, or Section {~~59-14-807~~} 59-14-908.

1174 (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.

1177 (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:

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- 1180 (i) \$1,000 for each product offered for sale in violation of this section; and  
1181 (ii) \$100 per day until the offending product is removed from the market or until the offending  
product is properly listed on the registry.
- 1183 (b) The commission shall suspend the person's license issued under Section 59-14-803 for a violation of  
Subsection (8)(a) as follows:
- 1185 (i) for a second violation within a 12-month period, at least 14 days;  
1186 (ii) for a third violation within a 12-month period, at least 60 days; or  
1187 (iii) for a fourth violation within a 12-month period, at least one year.
- 1188 (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:
- 1191 (i) \$1,000 for each product offered for retail sale in violation of this section; and  
1192 (ii) \$100 per day until the offending product is removed from the market or until the offending product  
is properly listed on the registry.
- 1194 (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.
- 1197 (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.
- 1200 (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:
- 1203 (i) the Department of Health and Human Services;  
1204 (ii) a local health department;~~[-or]~~  
1205 (iii) a law enforcement agency; or  
1206 ~~[(iii)]~~ (iv) the attorney general.
- 1207 (b) The commission and attorney general shall share with each other information received under this  
section, or corresponding laws of other states.
- 1209 (10)
- (a)

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

1211            ~~[(A)]~~ (i) the nonresident manufacturer has registered to do business in the state as a foreign  
                 corporation or business entity; or

1213            [(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.

1216 (b) The nonresident manufacturer shall provide the name, address, and telephone number of the agent to  
the commission.

1218 (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.

1222 (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.

1226 (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:

1229 (a) the status of the registry;

1230 (b) manufacturers and products included in the registry; and

1231 (c) revenue and expenditures related to administration of this section~~[; and]~~ .

1232 ~~[(d) enforcement activities undertaken under this section and Section 26A-1-131.]~~

1233 (12) All fees and penalties collected under this section shall be used for administration and enforcement  
of this section~~[and Section 26A-1-131]~~ and deposited into the account created in Section  
{ 59-14-906 } 59-14-807.

1236 (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.

1239           Section 14. Section **14** is enacted to read:

1240 **Part 9. Flavored Electronic Cigarette Tax**

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1241 **59-14-901. (Effective 01/01/26)Definitions.**

As used in this part:

1243 (1) "Licensee" means a retail tobacco specialty business that holds a license to sell a flavored electronic cigarette product under this part.

1245 (2)

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

1247 (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.

1249 (3) "Retail tobacco specialty business" means the same as that term is defined in Section 26B-7-501.

1251 Section 15. Section **15** is enacted to read:

1252 **59-14-902. License to sell flavored electronic cigarette product.**

1254 (1) A { ~~person~~ } ~~retailer~~ may not sell or offer to sell a flavored electronic cigarette product in this state without first:

1256 (a) obtaining a license from the commission under this section to sell a flavored electronic cigarette product; and

1258 (b) complying with any bonding requirement described in Subsection (5).

1259 (2) A license described in this section is required in addition to any other license required by law.

1261 (3)

(a) The commission shall issue a license to sell a flavored electronic cigarette product to a retailer that submits an application, on a form created by the commission, that includes:

1264 (i) the retailer's name;

1265 (ii) the address of the facility where the retailer will sell a flavored cigarette product; and

1267 (iii) any other information the commission requires to implement this part.

1268 (b) The commission may not issue a license under this part to a person that does not have a retail tobacco specialty business permit described in Section 26B-7-509.

1270 (4) A license described in Subsection (3) is:

1271 (a) valid only at one fixed business address;

1272 (b) valid for three years;

1273 (c) valid only for a physical location; and

1274 (d) renewable if a licensee meets the criteria for licensing described in Subsection (3).

1275 (5)

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(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.

1277 (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.

1279 (c) Subject to Subsection (5)(d), the commission shall determine the form and amount of the bond.

1281 (d) The minimum amount of the bond shall be \$500.

1282 (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.

1285 (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).

1289 (7) It is a class B misdemeanor for a person to violate Subsection (1).

1290 (8) The commission may not charge a fee for a license under this section.

1291 Section 16. Section **16** is enacted to read:

1292 **59-14-903. (Effective 01/01/26)Publication of licensed distributors -- Retailer transaction only with licensed distributor -- Penalty.**

1294 (1)

(a) The commission shall maintain a list that includes the identity of each licensee under this part to sell a flavored electronic cigarette product.

1296 (b) The list shall be:

1297 (i) published on the commission website; and

1298 (ii) updated by the commission at least once per quarter.

1299 (2) A distributor may sell a flavored electronic cigarette product only to a licensee identified on the list described in Subsection (1).

1301 (3)

(a) The commission may impose a penalty against a distributor that sells a flavored electronic cigarette product to a person other than a licensee.

1303 (b) On the first violation, the commission shall:

1304 (i) impose a fine of \$10,000; and

1305 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000.

1306 (c) On the second or subsequent violation within two years of the first violation, the commission shall:

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- 1308 (i) impose a fine of \$20,000; and
- 1309 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000.
- 1310 Section 17. Section **17** is enacted to read:
- 1311 **59-14-904. Taxation of flavored electronic cigarette products.**
- 1312 (1)
- (a) Beginning on January 1, 2026, a tax is imposed on the retail sale of a flavored electronic cigarette product.
- 1314 (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.
- 1316 (2) The amount of tax imposed under Subsection (1) is {~~.20~~} .10 multiplied by the retail price of each product sold.
- 1318 (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.
- 1321 (4)
- (a) The retailer shall remit the taxes collected in accordance with this section to the commission.
- 1323 (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.
- 1326 Section 18. Section **18** is enacted to read:
- 1327 **59-14-905. (Effective 01/01/26)Remittance of tax -- Returns -- Invoice required -- Filing requirement-- Exception -- Penalty -- Overpayment.**
- 1329 (1)
- (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:
- 1331 (i) the tax collected in the previous calendar quarter; and
- 1332 (ii) the quarterly tax return.
- 1333 (b) The tax collected and the return are due on or before the last day of April, July, October, and January.
- 1335 (2)
- (a) A consumer that purchases an untaxed flavored electronic cigarette product for use or other consumption shall:
- 1337

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(i) file with the commission, on forms prescribed by the commission, a statement showing the quantity and description of the item subject to tax under this part; and

(ii) pay the tax imposed by this part on that item.

(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.

(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.

(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.

(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:

(a) pay the tax prescribed by this part;

(b) pay the tax on time; or

(c) file a return required by this part.

(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.

Section 19. Section **19** is enacted to read:

### **59-14-906. Flavored Electronic Cigarette Product Proceeds Restricted Account.**

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

(2) The account consists of revenue collected by the tax imposed in Section 59-14-904 and fees and penalties collected under Section 59-14-908.

(3) Subject to Subsection (5), for each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute revenue generated by the tax created under this part as follows:

(a) 25% of the amount to the Department of Public Safety for enforcement of the state's electronic cigarette product laws and performance of the duties related to electronic cigarette products including programing;

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- 1370 (b) 70% of the amount transferred to the Department of Health and Human Services for use to perform  
1373 duties related to electronic cigarette product regulation, prevention, and research; and
- 1375 (c) 5% of the amount in the account to the State Board of Education to pay for the school lunch  
1378 program described in Section 53E-3-510.
- 1375 (4) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall  
1378 distribute revenue generated from the money deposited under Section {~~59-14-907~~} 59-14-908:  
1380 (a) to the commission, in an amount equal to the amount necessary to create and maintain the registry  
1383 described in Section {~~59-14-907~~} 59-14-908; and  
1380 (b) to the Department of Health and Human Services, in an amount necessary for completing duties  
1383 described in Section {~~59-14-907~~} 59-14-908 and duties described in Section 26B-7-505.
- 1383 (5)
- 1384 (a) The fund shall earn interest.
- 1384 (b) Interest earned on fund money shall be deposited into the fund.
- 1385 (6) Subject to legislative appropriations, before any amount of money is distributed under Subsection  
1387 (3), the Division of Finance shall distribute an amount to the commission to:
- 1387 (a) enforce compliance with the tax collection requirements of this part; and
- 1388 (b) for programming and maintaining the tax created under this part.
- 1389 Section 20. Section **20** is enacted to read:
- 1390 **59-14-907. (Effective 01/01/26)Reports of illegal product.**
- If the commission suspects that a flavored electronic cigarette product is being sold in  
violation of a law other than a law described in this part, the commission shall report the name  
of the seller, the type of product, and the county where the product was sold:
- 1394 (1) to the local health department for the county where the sale occurs;
- 1395 (2) to the Department of Health and Human Services; and
- 1396 (3) to the Department of Public Safety.
- 1397 Section 21. Section **21** is enacted to read:
- 1398 **59-14-908. (Effective 01/01/26)Flavored electronic cigarette product registry.**
- 1399 (1) Beginning on August 1, 2025, every manufacturer of a flavored 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:

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- 1403 (a) the manufacturer agrees to comply with this section;
- 1404 (b) the flavored electronic cigarette product meets the requirements for sale described in Section  
26B-7-505 and rules created under that section, including packaging requirements; and
- 1407 (c) beginning May 15, 2026, the flavored electronic cigarette product is equipped with RFID tracking  
technology in accordance with Section 26B-7-523.
- 1409 (2) When submitting the certification a manufacturer shall submit a form that separately lists each  
flavored electronic cigarette product that is sold in this state.
- 1411 (3)
- 1412 (a) Each certification form shall include:
- 1412 (i) the name of the flavored electronic cigarette product, nicotine content level by percentage, and  
any flavors contained in the product;
- 1414 (ii) a nonrefundable \$1,000 fee for each flavored electronic cigarette product that is being added to  
the registry in the first instance; and
- 1416 (iii) information described in Subsection (10) if applicable.
- 1417 (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.
- 1419 (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.
- 1423 (d) On or before January 31 of each year and in a manner prescribed by the commission, a manufacturer  
shall:
- 1425 (i) recertify that the information contained in the certification is correct and accurate;
- 1426 (ii) correct or amend information if necessary; and
- 1427 (iii) pay a \$250 nonrefundable fee for each flavored electronic cigarette product on the registry that is  
manufactured by the manufacturer.
- 1429 (e) A manufacturer may amend a certification, including to add additional flavored electronic cigarette  
products to the registry, if all requirements of this section are met.
- 1431 (f) The commission shall:
- 1432 (i) provide an electronic notification to a manufacturer that has not submitted a recertification under  
Subsection (3)(d); and
- 1434

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(ii) remove a manufacturer or the flavored electronic cigarette product that is not recertified from the registry by March 15.

1436 (4)

(a) The Department of Health and Human Services shall review materials described in Subsection (3) (a) and notify the commission regarding whether a flavored electronic cigarette product should be included in the registry.

1439 (b) On or before October 1, 2025, the commission shall make publicly available on the commission's website a registry that lists each flavored electronic cigarette product manufacturer and each flavored electronic cigarette product for which certification forms have been approved by the Department of Health and Human Services.

1443 (c) A flavored electronic cigarette product may not be listed on the registry unless the Department of Health and Human Services determines the product meets the requirements of Section 26B-7-505.

1446 (5)

(a) If the Department of Health and Human Services obtains information that a flavored 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.

1451 (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 a flavored electronic cigarette product or manufacturer from the registry.

1455 (c) Subsection (5)(b) does not apply to a manufacturer failing:

1456 (i) to recertify a flavored electronic cigarette product;

1457 (ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or

1458 (iii) to comply with Subsection (10).

1459 (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.

1463 (b) After the period described in Subsection (6)(a), any flavored electronic cigarette product of a manufacturer identified in the notice of removal are contraband and are subject to penalties under Subsection (8).

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1466 (7)

(a) Beginning on January 1, 2026, a person may not sell or offer for retail sale a flavored electronic cigarette product in this state that is not included in the registry.

1468 (b) A manufacturer may not sell, either directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, a flavored electronic cigarette product in this state that is not included in the registry.

1471 (8)

(a) A wholesaler, distributor, or retailer who sells or offers for retail sale a flavored electronic cigarette product in this state that is not included in the registry shall be subject to a civil penalty of:

1474 (i) \$1,000 for each product offered for sale in violation of this section; and

1475 (ii) \$100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

1477 (b) The commission shall suspend the person's license issued under Section 59-14-803 for a violation of Subsection (8)(a) as follows:

1479 (i) for a second violation within a 12-month period, at least 14 days;

1480 (ii) for a third violation within a 12-month period, at least 60 days; or

1481 (iii) for a fourth violation within a 12-month period, at least one year.

1482 (c) A manufacturer whose flavored 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:

1486 (i) \$1,000 for each product offered for retail sale in violation of this section; and

1487 (ii) \$100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

1489 (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.

1492 (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.

1495 (9)

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

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- 1498        (i) the Department of Health and Human Services;  
1499        (ii) a local health department;  
1500        (iii) a law enforcement agency; or  
1501        (iv) the attorney general.  
1502        (b) The commission and attorney general shall share with each other information received under this  
              section, or corresponding laws of other states.  
1504        (10)  
              (a) The commission may not list a nonresident manufacturer's flavored electronic cigarette products in  
              the registry unless:  
1506        (i) the nonresident manufacturer has registered to do business in the state as a foreign corporation or  
              business entity; or  
1508        (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.  
1511        (b) The nonresident manufacturer shall provide the name, address, and telephone number of the agent to  
              the commission.  
1513        (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.  
1517        (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.  
1521        (11) Before May 31, 2027, and each May 31 thereafter, 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:  
1524        (a) the status of the registry;  
1525        (b) manufacturers and products included in the registry; and  
1526        (c) revenue and expenditures related to administration of this section.  
1527        (12) All fees and penalties collected under this section shall be used for administration and enforcement  
              of this section and deposited into the account created in Section 59-14-906.

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- 1529     (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.
- 1532     (14) For a flavored electronic cigarette product, the registration required under this section is in addition  
          to the registration described in Section 59-14-810.
- 1534         Section 22. Section **63I-2-226** is amended to read:
- 1535         **63I-2-226. ~~{(Effective upon governor's approval)}~~(Effective 07/01/24) (Effective upon**  
          **governor's approval)****Repeal dates: Titles 26 through 26B.**
- 1537     (1) Section 26B-1-241, Tardive dyskinesia, is repealed July 1, 2024.
- 1538     (2) Section 26B-1-302, National Professional Men's Basketball Team Support of Women and Children  
          Issues Restricted Account, is repealed July 1, 2024.
- 1540     (3) Section 26B-1-309, Medicaid Restricted Account, is repealed July 1, 2024.
- 1541     (4) Section 26B-1-313, Cancer Research Restricted Account, is repealed July 1, 2024.
- 1542     (5) Section 26B-1-420, Cannabis Research Review Board, is repealed July 1, 2026.
- 1543     (6) Subsection 26B-1-421(9)(a), regarding a report to the Cannabis Research Review Board, is repealed  
          July 1, 2026.
- 1545     (7) Section 26B-1-423, Rural Physician Loan Repayment Program Advisory Committee -- Membership  
          -- Compensation -- Duties, is repealed July 1, 2026.
- 1547     (8) Section 26B-2-243, Data collection and reporting requirements concerning incidents of abuse,  
          neglect, or exploitation, is repealed July 1, 2027.
- 1549     (9) Section 26B-3-142, Long-acting injectables, is repealed July 1, 2024.
- 1550     (10) Subsection 26B-3-215(5), regarding reporting on coverage for in vitro fertilization and genetic  
          testing, is repealed July 1, 2030.
- 1552     (11) Subsection 26B-4-201(5), regarding the Cannabis Research Review Board, is repealed July 1,  
          2026.
- 1554     (12) Subsection 26B-4-212(1)(b), regarding the Cannabis Research Review Board, is repealed July 1,  
          2026.
- 1556     (13) Section 26B-4-702, Creation of Utah Health Care Workforce Financial Assistance Program, is  
          repealed July 1, 2027.
- 1558     (14) Subsection 26B-4-703(3)(b), regarding per diem and expenses for the Rural Physician Loan  
          Repayment Program Advisory Committee, is repealed July 1, 2026.

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- 1560 (15) Subsection 26B-4-703(3)(c), regarding expenses for the Rural Physician Loan Repayment  
Program, is repealed July 1, 2026.
- 1562 (16) Subsection 26B-4-703(6)(b), regarding recommendations from the Rural Physician Loan  
Repayment Program Advisory Committee, is repealed July 1, 2026.
- 1564 (17) Section 26B-5-117, Early childhood mental health support grant program, is repealed January 2,  
2025.
- 1566 (18) Section 26B-5-302.5, Study concerning civil commitment and the Utah State Hospital, is repealed  
July 1, 2025.
- 1568 (19) Section 26B-6-414, Respite care services, is repealed July 1, 2025.
- 1569 (20) Section 26B-7-120, Invisible condition alert program education and outreach, is repealed July 1,  
2025.
- 1571 (21) Subsection 26B-7-509(2)(d), regarding the 2025 fiscal year renewal fee, is repealed July 1, 2026.
- 1573 Section 23. Section **63I-2-259** is amended to read:
- 1574 **63I-2-259. ~~{(Effective upon governor's approval)}~~(Effective 06/21/24)Repeal dates: Title 59.**
- 1575 (1) Subsection 59-7-610(8), regarding claiming a tax credit in the same taxable year as the targeted  
business income tax credit, is repealed December 31, 2024.
- 1577 (2) Subsection 59-7-614.10(5), regarding claiming a tax credit in the same taxable year as the targeted  
business income tax credit, is repealed December 31, 2024.
- 1579 (3) Section 59-7-624, Targeted business income tax credit, is repealed December 31, 2024.
- 1580 (4) Subsection 59-10-210(2)(b)(vi), regarding Section 59-10-1112, is repealed December 31, 2024.
- 1582 (5) Subsection 59-10-1007(8), regarding claiming a tax credit in the same taxable year as the targeted  
business income tax credit, is repealed December 31, 2024.
- 1584 (6) Subsection 59-10-1037(5), regarding claiming a tax credit in the same taxable year as the targeted  
business income tax credit, is repealed December 31, 2024.
- 1586 (7) Section 59-10-1112, Targeted business income tax credit, is repealed December 31, 2024.
- 1588 (8) Section 59-10-908, Flavored electronic cigarette product registry, is repealed July 1, 2028.
- 1590 Section 24. Section **76-10-101** is amended to read:
- 1591 **76-10-101. (Effective upon governor's approval)Definitions.**
- As used in this part:
- 1593 (1)

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(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:

(i) contains nicotine;

(ii) is intended for human consumption;

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

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

(b) "Alternative nicotine product" includes:

(i) pure nicotine;

(ii) snortable nicotine;

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

(iv) nicotine-laced food and beverage.

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

(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.

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

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

(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).

(4)

(a) "Electronic cigarette" means:

(i) any electronic oral device:

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

(B) which simulates smoking through the use or inhalation of the device;

(ii) a component of the device described in Subsection (4)(a)(i); or

(iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).

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

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- 1626 (i) composed of a heating element, battery, or electronic circuit; and
- 1627 (ii) marketed, manufactured, distributed, or sold as:
- 1628 (A) an e-cigarette;
- 1629 (B) an e-cigar;
- 1630 (C) an e-pipe; or
- 1631 (D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).
- 1633 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26B-4-201.
- 1635 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.
- 1637 (6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.
- 1639 (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.
- 1642 (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.
- 1645 (c) "Flavored electronic cigarette product" does not include an electronic cigarette product that has a taste or smell of only tobacco or menthol.
- 1647 (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.
- 1649 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.
- 1651 (10) "Nicotine restricted individual" means an individual to whom the sale, offer for sale, or furnishing of a tobacco product, nicotine product, or electronic cigarette product is prohibited by:
- 1654 (a) law; or
- 1655 (b) court order.
- 1656 [~~(10)~~] (11)
- (a) "Nontherapeutic nicotine device" means a device that:

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- 1657 (i) has a pressurized canister that is used to administer nicotine to the user through inhalation or  
intranasally;
- 1659 (ii) is not purchased with a prescription from a licensed physician; and
- 1660 (iii) is not approved by the United States Food and Drug Administration as nicotine replacement  
therapy.
- 1662 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic  
nicotine nasal spray.
- 1664 ~~[(11)]~~ (12) "Nontherapeutic nicotine device substance" means a substance that:
- 1665 (a) contains nicotine;
- 1666 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
- 1667 (c) is not purchased with a prescription from a licensed physician; and
- 1668 (d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.
- 1670 ~~[(12)]~~ (13) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic  
nicotine device substance, or a prefilled nontherapeutic nicotine device.
- 1672 ~~[(13)]~~ (14) "Place of business" includes:
- 1673 (a) a shop;
- 1674 (b) a store;
- 1675 (c) a factory;
- 1676 (d) a public garage;
- 1677 (e) an office;
- 1678 (f) a theater;
- 1679 (g) a recreation hall;
- 1680 (h) a dance hall;
- 1681 (i) a poolroom;
- 1682 (j) a cafe;
- 1683 (k) a cafeteria;
- 1684 (l) a cabaret;
- 1685 (m) a restaurant;
- 1686 (n) a hotel;
- 1687 (o) a lodging house;
- 1688 (p) a streetcar;

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- 1689 (q) a bus;
- 1690 (r) an interurban or railway passenger coach;
- 1691 (s) a waiting room; and
- 1692 (t) any other place of business.
- 1693 ~~[(14)]~~ (15) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an  
electronic cigarette substance.
- 1695 ~~[(15)]~~ (16) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is  
sold prefilled with a nontherapeutic nicotine device substance.
- 1697 ~~[(16)]~~ (17) "Premarket authorized or pending electronic cigarette product" means an electronic cigarette  
product that:
- 1699 ~~[(a)]~~  
~~(i)~~ (a) 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(c)(1)(A)(i); or
- 1702 ~~[(ii)]~~ (b)  
~~[(A)]~~ (i) was marketed in the United States on or before August 8, 2016;
- 1703 ~~[(B)]~~ (ii) 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
- 1706 ~~[(C)]~~ (iii) has an application described in Subsection ~~[(16)(a)(ii)]~~ (17)(b)(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]~~
- 1709 ~~[(b) does not exceed:]~~
- 1710 ~~[(i) 4.0% nicotine by weight per container; or]~~
- 1711 ~~[(ii) a nicotine concentration of 40 milligrams per milliliter.]~~
- 1712 ~~[(17)]~~ (18) "Retail tobacco specialty business" means the same as that term is defined in Section  
26B-7-501.
- 1714 ~~[(18)]~~ (19) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted  
smoking equipment.
- 1716 ~~[(19)]~~ (20)

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(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.

1721 (b) "Tobacco paraphernalia" includes:

1722 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent  
screens, hashish heads, or punctured metal bowls;

1724 (ii) water pipes;

1725 (iii) carburetion tubes and devices;

1726 (iv) smoking and carburetion masks;

1727 (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;

1729 (vi) chamber pipes;

1730 (vii) carburetor pipes;

1731 (viii) electric pipes;

1732 (ix) air-driven pipes;

1733 (x) chillums;

1734 (xi) bongs; and

1735 (xii) ice pipes or chillers.

1736 (c) "Tobacco paraphernalia" does not include matches or lighters.

1737 [~~(20)~~] (21) "Tobacco product" means:

1738 (a) a cigar;

1739 (b) a cigarette; or

1740 (c) tobacco in any form, including:

1741 (i) chewing tobacco; and

1742 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

1743 [~~(21)~~] (22) "Tobacco retailer" means:

1744 (a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or

1745 (b) a retail tobacco specialty business.

1746 Section 25. Section **76-10-104** is amended to read:

1747

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**76-10-104. (Effective upon governor's approval) Providing a cigar, a cigarette, an electronic cigarette product, a nicotine product, or tobacco to a minor -- Penalties.**

- 1749 (1) As used in this section "provides":  
1750 (a) includes selling, giving, furnishing, sending, or causing to be sent; and  
1751 (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.
- 1755 (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:
- 1758 (a) a class [C] B misdemeanor on the first offense; and  
1759 [~~(b) a class B misdemeanor on the second offense; and~~]  
1760 [~~(c)~~] (b) a class A misdemeanor on any subsequent offense.
- 1761 (3) This section does not apply to conduct of an employee of a tobacco retailer that is a violation of  
Section 76-10-114.
- 1763 (4)  
(a) After a conviction under this section, a court shall designate the individual as a nicotine restricted  
individual for a period of time not to exceed the probationary period, unless the court finds good  
cause to order a shorter or longer time.
- 1766 (b) The court shall provide the Department of Public Safety information regarding a nicotine restricted  
individual and the length of time the individual is restricted for entry into the system created in  
Section Section 53-1-106.

1769 Section 26. Section **76-10-104.1** is amended to read:

1770 **76-10-104.1. (Effective upon governor's approval) Providing tobacco paraphernalia to a**  
**minor -- Penalties.**

- 1772 (1) As used in this section, "provides":  
1773 (a) includes selling, giving, furnishing, sending, or causing to be sent; and  
1774 (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

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compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.

1778 (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.

1781 (b) An individual who violates this section is guilty of:

1782 (i) a class [C] B misdemeanor on the first offense; and

1783 (ii) a class [B] A misdemeanor on any subsequent offense.

1784 Section 27. Section **76-10-105.1** is amended to read:

1785 **76-10-105.1. (Effective upon governor's approval) 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.**

1788 (1) As used in this section:

1789 (a)

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

1791 (ii) "Face-to-face exchange" does not include a sale through a:

1792 (A) vending machine;[~~or~~]

1793 (B) self-service display[~~;~~] ; or

1794 (C) a drive through.

1795 (b) "Retailer" means a person who:

1796 (i) sells a tobacco product, an electronic cigarette product, or a nicotine product to an individual for personal consumption; or

1798 (ii) operates a facility with a vending machine that sells a tobacco product, an electronic cigarette product, or a nicotine product.

1800 (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.

1803 (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.

1805 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

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- 1806 (a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509; or  
1808 (b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:  
1810 (i) that is distinct and separate from the rest of the facility; and  
1811 (ii) where the retailer only allows an individual who complies with Subsection (4) to be present~~[; or]~~ .  
1813 ~~[(e) a sale at a retail tobacco specialty business.]~~  
1814 (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:  
1816 ~~[(a) accompanied by a parent or legal guardian; or]~~  
1817 ~~[(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;  
1820 ~~[(ii)]~~ (b) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail  
tobacco specialty business; and  
1822 ~~[(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).  
1824 ~~[(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.]~~  
1828 ~~[(6)]~~ (5) A violation of Subsection (2) or (4) is a:  
1829 (a) class ~~[C]~~ B misdemeanor on the first offense; and  
1830 ~~[(b) class B misdemeanor on the second offense; and]~~  
1831 ~~[(e)]~~ (b) class A misdemeanor on any subsequent offenses.  
1832 ~~[(7) An individual who violates Subsection (5) is guilty of an offense under Section 76-10-104.]~~  
1834 Section 28. Section **76-10-111** is amended to read:  
1835 **76-10-111. (Effective upon governor's approval) Restrictions on sale of smokeless tobacco or**  
**electronic cigarette products -- Exceptions.**  
1837 (1) The Legislature finds that:  
1838 (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;  
1841 (b) the use of smokeless tobacco among juveniles in this state is ~~[increasing rapidly]~~ a matter of great  
concern;

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- 1843 (c) the use of electronic cigarette products may lead to unhealthy behavior such as the use of tobacco  
products; and
- 1845 (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.
- 1847 (2)
- 1849 (a) Except as provided in Subsection (3), it is unlawful for a manufacturer, wholesaler, and retailer to:
- 1851 (i) give or distribute without charge any smokeless tobacco, chewing tobacco, or electronic  
cigarette product in this state;
- 1854 (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
- 1857 (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.
- 1859 (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection (2)(a)(ii) does  
not include a discount for:
- 1860 (i) a physical manufacturer coupon:
- 1861 (A) that is surrendered to the wholesaler or retailer at the time of sale; and
- 1864 (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;
- 1866 (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
- 1868 (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.
- 1869 (c) Any individual who violates this section is guilty of:
- 1870 (i) a class [C] B misdemeanor for the first offense; and
- 1871 (ii) a class [B] A misdemeanor for any subsequent offense.
- 1874 (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.
- 1875 Section 29. Section **76-10-112** is amended to read:
- 1877 **76-10-112. (Effective upon governor's approval) Prohibition of distribution of a tobacco  
product -- Exceptions.**

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(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.

1879 (2) An individual who violates this subsection is guilty of:

1880 (a) a class [C] B misdemeanor for the first offense; and

1881 (b) a class [B] A misdemeanor for any subsequent offense.

1882 (3) A tobacco product may be distributed to an adult without charge at a professional convention where the general public is excluded.

1884 (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.

1887 Section 30. Section **76-10-113** is amended to read:

1888 **76-10-113. (Effective upon governor's approval)Prohibition on distribution of flavored electronic cigarette products -- Prohibition of electronic cigarette products without federal authorization.**

1891 (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.

1894 [~~(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.]~~

1897 [~~(3)~~] (2) Beginning on January 1, 2025, it is unlawful for a person that is not a retail tobacco specialty business 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.

1901 [~~(4)~~] (3) An individual who violates this section is guilty of:

1902 (a) a class [C] B misdemeanor for the first offense; and

1903 (b) a class [B] A misdemeanor for any subsequent offense.

1904 Section 31. Section **31** is enacted to read:

1905 **76-10-113.1. (Effective upon governor's approval)Unlawful possession or use of a flavored electronic cigarette product.**

1907 (1) Terms defined in Sections 76-1-101.5 and 76-10-101 apply to this section.

1908

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(2) Beginning January 1, 2026, an actor commits illegal possession or use of a flavored electronic cigarette product without state authorization if the actor possesses or uses a flavored electronic cigarette product that is not on the registry described in Section 58-14-908.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 32. Section **32** is enacted to read:

**76-10-113.2. (Effective upon governor's approval) Distribution of flavored electronic cigarette product without state authorization.**

(1) Terms defined in Sections 76-1-101.5 and 76-10-101 apply to this section.

(2) Beginning January 1, 2026, an actor commits illegal distribution of a flavored electronic cigarette product without state authorization if the actor gives, distributes, sells, offers for sale, or furnishes to any person an electronic cigarette product that is not on the registry described in Section 59-14-908.

(3) A violation of Subsection (2) is:

(a) a class B misdemeanor on the first offense; or

(b) a class A misdemeanor on a subsequent offense.

Section 33. Section **76-10-114** is amended to read:

**76-10-114. (Effective upon governor's approval) Unlawful sale of a tobacco product, electronic cigarette product, or nicotine product.**

(1) As used in this section:

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

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

(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.

(3) An employee who violates this section is:

(a) on a first violation:

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

(ii) subject to:

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

(B) compensatory service; or

(b) on any subsequent violation:

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1941 (i) guilty of a class [C] B misdemeanor; and

1942 (ii) subject to:

1943 (A) a fine not exceeding \$2,000; or

1944 (B) compensatory service.

1945 Section 34. **Repealer.**

This Bill Repeals:

1946 This bill repeals:

1947 Section **26A-1-131, (Effective upon governor's approval)Electronic cigarette registry**  
1948 **enforcement.**

1949 Section 35. **Effective date.**

1950 (1) Except as provided in Subsection (2), this bill takes effect:

1951 (a) except as provided in Subsection (1)(b), May 7, 2025; or

1952 (b) if approved by two-thirds of all members elected to each house:

1953 (i) upon approval by the governor;

1954 (ii) without the governor's signature, the day following the constitutional time limit of Utah  
Constitution, Article VII, Section 8; or

1956 (iii) in the case of a veto, the date of veto override.

1957 (2) The actions affecting the following sections take effect on January 1, 2026:

1958 (a) Section 59-14-901 (Effective 01/01/26);

1959 (b) Section 59-14-902 (Effective 01/01/26);

1960 (c) Section 59-14-903 (Effective 01/01/26);

1961 (d) Section 59-14-904 (Effective 01/01/26);

1962 (e) Section 59-14-905 (Effective 01/01/26);

1963 (f) Section 59-14-906 (Effective 01/01/26);

1964 (g) Section 59-14-907 (Effective 01/01/26); and

1965 (h) Section 59-14-908 (Effective 01/01/26).

1966 Section 36. **Coordinating H.B. 432 with H.B. 21.**

If H.B. 432, Tobacco and Electronic Cigarette Enforcement Modifications, and H.B. 21,  
Criminal Code Recodification and Cross References, both pass and become law, the  
Legislature intends that, on May 7, 2025:

1970 (1) Subsection 76-9-1104(3) enacted in H.B. 21 be amended to read:

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1971 "(3) A violation of Subsection (2) is:  
1972 (a) a class B misdemeanor on the first offense; or  
1973 (b) a class A misdemeanor on the second or subsequent offense.";  
1974 (2) Subsection 76-10-105.1(1)(a)(ii) in H.B. 432 and Subsection 76-9-1107(1)(a)(i)(B) in H.B. 21 be  
amended to read:  
1976 "Face-to-face exchange" does not include a sale through a[:] ~~vending machine, self-service~~  
display, or drive-through.  
1978 [(A) vending machine; or]  
1979 [(B) self-service display.] ";  
1980 (3) Subsection 76-9-1107(3) enacted in H.B. 21 be amended to read:  
1981 "(3) A violation of Subsection (2) is:  
1982 (a) a class B misdemeanor on the first offense; or  
1983 (b) a class A misdemeanor on the second or subsequent offense.";  
1984 (4) Subsection 76-9-1107(4)(b)(ii)(A) enacted in H.B. 21 be deleted and the remaining subsections be  
renumbered accordingly;  
1986 (5) the following subsections in Section 76-9-1108 enacted in H.B. 21 be deleted and the remaining  
subsections be renumbered accordingly:  
1988 (a) Subsection 76-9-1108(4)(a); and  
1989 (b) Subsection 76-9-1108(5);  
1990 (6) Subsection 76-9-1108(3) enacted in H.B. 21 be amended to read:  
1991 "(3) A violation of Subsection (2) is:  
1992 (a) a class B misdemeanor on the first offense; or  
1993 (b) a class A misdemeanor on the second or subsequent offense.";  
1994 (7) Subsection 76-9-1112(3) enacted in H.B. 21 be amended to read:  
1995 "(3) A violation of Subsection (2) is:  
1996 (a) a class B misdemeanor on the first offense; or  
1997 (b) a class A misdemeanor on the second or subsequent offense.";  
1998 (8) Section 76-9-1114 (renumbered from Section 76-10-113 in H.B. 21) be amended to read:  
2000 "[(1) Subject to Subsection (2), 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.]

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- 2003 ~~[(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.]~~
- 2006 ~~[(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.]~~
- 2009 ~~[(4) An individual who violates this section is guilty of:]~~
- 2010 ~~[(a) a class C misdemeanor for the first offense; and]~~
- 2011 ~~[(b) a class B misdemeanor for any subsequent offense.]~~
- 2012 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
- 2013 (2) An actor commits illegal distribution of a flavored electronic cigarette product by a tobacco retailer if the actor:
- 2015 (a) is a tobacco retailer that is not a retail tobacco specialty business; and
- 2016 (b) gives, distributes, sells, offers for sale, or furnishes a flavored electronic cigarette product to any person.
- 2018 (3) A violation of Subsection (2) is:
- 2019 (a) a class B misdemeanor on the first offense; or
- 2020 (b) a class A misdemeanor on the second or subsequent offense."; and
- 2021 (9) Section 76-9-1115 enacted in H.B. 21 be amended to read:
- 2022 "(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
- 2023 (2) Beginning January 1, 2026, an actor commits illegal distribution of an electronic cigarette product without federal authorization if:
- 2025 (a) the actor is not a retail tobacco specialty business; and
- 2026 (b) the actor gives, distributes, sells, offers for sale, or furnishes to any person an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product.
- 2029 (3) A violation of Subsection (2) is:
- 2030 (a) a class B misdemeanor on the first offense; or
- 2031 (b) a class A misdemeanor on a subsequent offense."

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