

# HB0524S01 compared with HB0524

~~{Omitted text}~~ shows text that was in HB0524 but was omitted in HB0524S01

inserted text shows text that was not in HB0524 but was inserted into HB0524S01

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1                    ~~{Supplement}~~ Non-nicotine Inhalation Product Amendments

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jason E. Thompson**

Senate Sponsor:Brady Brammer



2  
3 **LONG TITLE**

4 **General Description:**

5        This bill ~~{regulates supplement}~~ amends provisions related to non-nicotine inhalation products.

6 **Highlighted Provisions:**

7        This bill:

- 8            ▶ defines terms;
- 9            ▶ bans the sale of ~~{supplement}~~ non-nicotine inhalation products that do not have federal approval for sale;

11            ▶ modifies the definition of "electronic cigarette product" to include a non-nicotine inhalation product;

13            ▶ modifies the electronic cigarette product registry to include a non-nicotine inhalation product;

10            ▶ creates penalties for selling ~~{supplement}~~ non-nicotine inhalation products that do not have federal approval for sale; and

12            ▶ creates ~~{a}~~ criminal ~~{penalty}~~ penalties.

18 **Money Appropriated in this Bill:**

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19 None

20 **Other Special Clauses:**

21 None

23 AMENDS:

24 **26B-7-501** , as renumbered and amended by Laws of Utah 2023, Chapter 308 , as renumbered and  
amended by Laws of Utah 2023, Chapter 308

25 **59-14-802 , as last amended by Laws of Utah 2020, Chapter 347 , as last amended by Laws of  
Utah 2020, Chapter 347**

26 **59-14-810 , as enacted by Laws of Utah 2024, Chapter 470 , as enacted by Laws of Utah  
2024, Chapter 470**

27 **76-10-101** , as last amended by Laws of Utah 2024, Chapter 470 , as last amended by Laws of Utah  
2024, Chapter 470

28 ENACTS:

29 **26B-7-523** , Utah Code Annotated 1953 , Utah Code Annotated 1953

30 **76-10-117** , Utah Code Annotated 1953 , Utah Code Annotated 1953

31

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

33 Section 1. Section **26B-7-501** is amended to read:

34 **26B-7-501. Definitions.**

As used in this part:

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

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

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

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

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

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

37 (5) "Employee" means an employee of a tobacco retailer.

38 (6) "Enforcing agency" means the department, or any local health department enforcing the provisions  
of this part.

40 (7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.

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

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- 43 (9) "Manufacture" includes:
- 44 (a) to cast, construct, or make electronic cigarettes; or
- 45 (b) to blend, make, process, or prepare an electronic cigarette substance.
- 46 (10) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is  
sold in a container that:
- 48 (a) is prefilled by the electronic cigarette substance manufacturer; and
- 49 (b) the electronic cigarette manufacturer does not intend for a consumer to open.
- 50 (11) "Manufacturer sealed electronic cigarette product" means:
- 51 (a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not  
intend for a consumer to open or refill; or
- 53 (b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.
- 54 (12) "Nicotine" means the same as that term is defined in Section 76-10-101.
- 55 (13) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 63 (14) "Non-nicotine inhalation product" means the same as that term is defined in Section 76-10-101.
- 56 ~~[(14)]~~ (15) "Non-tobacco shisha" means any product that:
- 57 (a) does not contain tobacco or nicotine; and
- 58 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 59 ~~[(15)]~~ (16) "Owner" means a person holding a 20% ownership interest in the business that is required to  
obtain a permit under this part.
- 61 ~~[(16)]~~ (17) "Permit" means a tobacco retail permit issued under Section 26B-7-507.
- 62 ~~[(17)]~~ (18) "Place of public access" means any enclosed indoor place of business, commerce, banking,  
financial service, or other service-related activity, whether publicly or privately owned and whether  
operated for profit or not, to which persons not employed at the place of public access have general  
and regular access or which the public uses, including:
- 67 (a) buildings, offices, shops, elevators, or restrooms;
- 68 (b) means of transportation or common carrier waiting rooms;
- 69 (c) restaurants, cafes, or cafeterias;
- 70 (d) taverns as defined in Section 32B-1-102, or cabarets;
- 71 (e) shopping malls, retail stores, grocery stores, or arcades;
- 72 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or  
arenas;

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- 74 (g) barber shops, hair salons, or laundromats;
- 75 (h) sports or fitness facilities;
- 76 (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;
- 80 (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
- 83 (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;
- 86 (k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;
- 88 (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;
- 91 (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;
- 94 (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;
- 96 (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
- 98 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.
- 99 ~~(18)~~ (19)
- (a) "Proof of age" means:
- 100 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;
- 102 (ii) a valid identification that:
- 103 (A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;
- 105 (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
- 107 (C) includes date of birth; and
- 108 (D) has a picture affixed;

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- 109 (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;
- 112 (iv) a valid United States military identification card that:
- 113 (A) includes date of birth; and
- 114 (B) has a picture affixed; or
- 115 (v) a valid passport.
- 116 (b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section  
53-3-207.
- 118 ~~[(19)]~~ (20) "Publicly owned building or office" means any enclosed indoor place or portion of a place  
owned, leased, or rented by any state, county, or municipal government, or by any agency supported  
by appropriation of, or by contracts or grants from, funds derived from the collection of federal,  
state, county, or municipal taxes.
- 122 ~~[(20)]~~ (21) "Retail tobacco specialty business" means the same as that term is defined:
- 123 (a) as it relates to a municipality, in Section 10-8-41.6; and
- 124 (b) as it relates to a county, in Section 17-50-333.
- 125 ~~[(21)]~~ (22) "Shisha" means any product that:
- 126 (a) contains tobacco or nicotine; and
- 127 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 128 ~~[(22)]~~ (23) "Smoking" means:
- 129 (a) the possession of any lighted or heated tobacco product in any form;
- 130 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that  
contains:
- 132 (i) tobacco or any plant product intended for inhalation;
- 133 (ii) shisha or non-tobacco shisha;
- 134 (iii) nicotine;
- 135 (iv) a natural or synthetic tobacco substitute; or
- 136 (v) a natural or synthetic flavored tobacco product;
- 137 (c) using an electronic cigarette; or
- 138 (d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.
- 140 ~~{(23)}~~ "Supplement inhalation product" means the same as that terms is defined in Section 76-10-101.}

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142 [(23)] (24) "Tax commission license" means a license issued by the State Tax Commission under:

144 (a) Section 59-14-201 to sell a cigarette at retail;

145 (b) Section 59-14-301 to sell a tobacco product at retail; or

146 (c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

147 [(24)] (25) "Tobacco product" means:

148 (a) a tobacco product as defined in Section 76-10-101; or

149 (b) tobacco paraphernalia as defined in Section 76-10-101.

150 [(25)] (26) "Tobacco retailer" means a person that is required to obtain a tax commission license.

159 Section 2. Section 2 is enacted to read:

160 **26B-7-523. {Supplement} Non-nicotine inhalation product -- Penalty.**

154 (1) A {supplement} non-nicotine inhalation product that {has} is not {been approved for sale in interstate commerce by the United States Food and Drug Administration is contraband and}  
157 contained in the registry described in Section 59-14-810 may not be sold in the state.

(2)

(a) The department or a local health department may issue a fine to a person that sells, offers to sell, or otherwise distributes a {supplement} non-nicotine inhalation product in violation of Subsection (1) and in accordance with Subsection (2)(b).

160 (b) A fine described in Subsection (2)(a) shall be assessed as follows:

161 (i) for a first violation, \$1,000;

162 (ii) for a second violation, \$1,500;

163 (iii) for a third violation, \$2,000; and

164 (iv) for a fourth violation, \$5,000.

165 (c) The department or a local health department shall enforce this section under the procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative proceeding, including:

168 (i) notifying a retailer of alleged violations;

169 (ii) conducting hearings;

170 (iii) determining violations; and

171 (iv) imposing civil administrative penalties.

172 (3)

(a) A county or municipality may suspend a person's business license for violations of Subsection (1) and in accordance with Subsection (3)(b).

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- 174 (b) A suspension of a business license described in Subsection (3)(a) shall be imposed as follows:  
176 (i) for a second violation, a 30-day suspension;  
177 (ii) for a third violation, a 90-day suspension; and  
178 (iii) for a fourth violation, a one year suspension.  
179 (c) A county or municipality shall use the process a county or municipality uses to impose business  
license suspensions in other contexts to impose a violation under Subsection (3)(b).  
182 (4) At a civil hearing for enforcement under Subsection (2) or (3), evidence of the final criminal  
conviction of a person for violation of Section 76-10-117 is prima facie evidence of a violation of  
this section.

191 Section 3. Section 59-14-802 is amended to read:

### 192 **59-14-802. Definitions.**

As used in this part:

- 194 (1) "Licensee" means a person that holds a valid license to sell an electronic cigarette product or a  
nicotine product.  
196 (2)  
(a) "Manufacturer's sales price" means the amount that the manufacturer of an electronic cigarette  
substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine  
device substance, or a prefilled nontherapeutic nicotine device charges after subtracting a discount.  
200 (b) "Manufacturer's sales price" includes an original Utah destination freight charge, regardless of:  
202 (i) whether the electronic cigarette substance, prefilled electronic cigarette, alternative nicotine product,  
nontherapeutic nicotine device substance, or prefilled nontherapeutic nicotine device is shipped  
f.o.b. origin or f.o.b. destination; or  
205 (ii) who pays the original Utah destination freight charge.  
206 (3) "Non-nicotine inhalation product" means the same as that term is defined in Section 76-10-101.  
208 (4) "Premarket authorized or pending electronic cigarette product" means the same as that term is  
defined in Section 76-10-101.

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

### 211 **59-14-810. Electronic cigarette product registry.**

- 212 (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

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intermediaries, shall certify under penalty of perjury on a form and in the manner prescribed by the commission, that:

- 216 (a) the manufacturer agrees to comply with this section; and
- 217 (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.] meets the following requirements:
- 220 (i) for an electronic cigarette product that contains nicotine, that the product is a premarket authorized  
or pending electronic cigarette product; or
- 222 (ii) for an electronic cigarette product that is a non-nicotine inhalation product, the product is approved  
for sale in interstate commerce by the United States Food and Drug Administration.
- 225 (2) When submitting the certification a manufacturer shall submit a form that separately lists each  
electronic cigarette product that is sold in this state.
- 227 (3)
- (a) Each certification form shall include:
- 228 (i) the name of the electronic cigarette product, nicotine content level by percentage, and any  
flavors contained in the product;
- 230 (ii) for an electronic cigarette product that contains nicotine:
- 231 (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
- 234 (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;
- 238 (iii) for an electronic cigarette product that is a non-nicotine inhalation product, evidence that  
the product is approved for sale in interstate commerce by the United States Food and Drug  
Administration;
- 241 ~~[(iii)]~~ (iv) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added to the  
registry in the first instance; and
- 243 ~~[(iv)]~~ (v) information described in Subsection (10) if applicable.
- 244 (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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- 246 (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:
- 250 (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
- 252 (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.
- 256 (d) On or before January 31 of each year and in a manner prescribed by the commission, a manufacturer  
shall:
- 258 (i) recertify that the information contained in the certification is correct and accurate;
- 259 (ii) correct or amend information if necessary; and
- 260 (iii) pay a \$250 nonrefundable fee for each electronic cigarette product on the registry that is  
manufactured by the manufacturer.
- 262 (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.
- 264 (f) The commission shall:
- 265 (i) provide an electronic notification to a manufacturer that has not submitted a recertification under  
Subsection (3)(d); and
- 267 (ii) remove a manufacturer or an electronic cigarette product that is not recertified from the registry by  
March 15.
- 269 (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.
- 272 (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.

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- (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.
- 279 (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.
- 284 (b) Except as provided in Subsection (5)(c), the Department of Health and Human Services shall comply with Title 63G, Chapter 4, Administrative Procedures Act, before notifying the commission to remove an electronic cigarette product or manufacturer from the registry.
- 288 (c) Subsection (5)(b) does not apply to a manufacturer failing:
- 289 (i) to decertify an electronic cigarette product;
- 290 (ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or
- 291 (iii) to comply with Subsection (10).
- 292 (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.
- 296 (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.
- 300 (7)
- (a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an electronic cigarette product in this state that is not included in the registry.
- 302 (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.
- 305 (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:
- 308 (i) \$1,000 for each product offered for sale in violation of this section; and

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- 309 (ii) \$100 per day until the offending product is removed from the market or until the offending  
product is properly listed on the registry.
- 311 (b) The commission shall suspend the person's license issued under Section 59-14-803 for a violation of  
Subsection (8)(a) as follows:
- 313 (i) for a second violation within a 12-month period, at least 14 days;
- 314 (ii) for a third violation within a 12-month period, at least 60 days; or
- 315 (iii) for a fourth violation within a 12-month period, at least one year.
- 316 (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:
- 319 (i) \$1,000 for each product offered for retail sale in violation of this section; and
- 320 (ii) \$100 per day until the offending product is removed from the market or until the offending product  
is properly listed on the registry.
- 322 (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.
- 325 (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.
- 328 (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:
- 331 (i) the Department of Health and Human Services;
- 332 (ii) a local health department; or
- 333 (iii) the attorney general.
- 334 (b) The commission and attorney general shall share with each other information received under this  
section, or corresponding laws of other states.
- 336 (10)
- (a)
- [(+)] The commission may not list a nonresident manufacturer of an electronic cigarette product in  
the registry unless:

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- 338            ~~[(A)]~~ (i) the nonresident manufacturer has registered to do business in the state as a foreign  
                 corporation or business entity; or
- 340            ~~[(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.
- 343 (b) The nonresident manufacturer shall provide the name, address, and telephone number of the agent to  
                 the commission.
- 345 (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.
- 349 (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.
- 353 (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:
- 356 (a) the status of the registry;
- 357 (b) manufacturers and products included in the registry;
- 358 (c) revenue and expenditures related to administration of this section; and
- 359 (d) enforcement activities undertaken under this section and Section 26A-1-131.
- 360 (12) All fees and penalties collected under this section shall be used for administration and enforcement  
                 of this section and Section 26A-1-131.
- 362 (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.

365            Section 5. Section **76-10-101** is amended to read:

366            **76-10-101. Definitions.**

                 As used in this part:

188            (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:
- 191 (i) contains nicotine;
- 192 (ii) is intended for human consumption;
- 193 (iii) is not purchased with a prescription from a licensed physician; and
- 194 (iv) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.
- 196 (b) "Alternative nicotine product" includes:
- 197 (i) pure nicotine;
- 198 (ii) snortable nicotine;
- 199 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and
- 200 (iv) nicotine-laced food and beverage.
- 201 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.
- 203 (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.
- 206 (3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned under ordinary conditions of use, and consists of:
- 208 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
- 209 (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).
- 213 (4)
- (a) "Electronic cigarette" means:
- 214 (i) any electronic oral device:
- 215 (A) that provides an aerosol or a vapor of nicotine or other substance; and
- 216 (B) which simulates smoking through the use or inhalation of the device;
- 217 (ii) a component of the device described in Subsection (4)(a)(i); or
- 218 (iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).
- 220 (b) "Electronic cigarette" includes an oral device that is:

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- 221 (i) composed of a heating element, battery, or electronic circuit; and
- 222 (ii) marketed, manufactured, distributed, or sold as:
- 223 (A) an e-cigarette;
- 224 (B) an e-cigar;
- 225 (C) an e-pipe; or
- 226 (D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).
- 228 (c) "Electronic cigarette" does not ~~{mean }~~ ~~{include:}~~
- 229 ~~{(i)}~~ a medical cannabis device, as that term is defined in Section 26B-4-201 ~~{,}~~ ~~{or}~~
- 230 ~~{(ii)}~~ ~~a supplement inhalation product.~~
- 231 (5)
- (a) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.
- 233 (b) "Electronic cigarette product" ~~{does not include a supplement}~~ includes a non-nicotine inhalation product.
- 234 (6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.
- 236 (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.
- 239 (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.
- 242 (c) "Flavored electronic cigarette product" does not include an electronic cigarette product that has a taste or smell of only tobacco or menthol.
- 244 (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.
- 246 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.
- 427 (10)
- (a) "Non-nicotine inhalation product" means a product that:

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- 428 (i) is a manufacturer sealed prefilled cartridge that the manufacturer does not intend for a consumer  
430 to open;
- 432 (ii) contains a vitamin, a mineral, a dietary supplement, or except as provided in Subsection (10)(a)  
434 (iv) an alkaloid;
- 436 (iii) is designed specifically to be used with an electronic cigarette to produce an aerosol or vapor of  
438 the substance described in Subsection (10)(a)(iv);
- 439 (iv) does not contain nicotine; and
- 440 (v) does not contain a cannabinoid.
- 441 (b) "Non-nicotine inhalation product" does not include a product that is designed, marketed, sold, and  
442 intended solely for aromatherapy.
- 443 ~~(10)~~ (11)
- (a) "Nontherapeutic nicotine device" means a device that:
- 444 (i) has a pressurized canister that is used to administer nicotine to the user through inhalation or  
445 intranasally;
- 446 (ii) is not purchased with a prescription from a licensed physician; and
- 447 (iii) is not approved by the United States Food and Drug Administration as nicotine replacement  
448 therapy.
- 449 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic  
450 nicotine nasal spray.
- 451 ~~(11)~~ (12) "Nontherapeutic nicotine device substance" means a substance that:
- 452 (a) contains nicotine;
- 453 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
- 454 (c) is not purchased with a prescription from a licensed physician; and
- 455 (d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.
- 456 ~~(12)~~ (13) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic  
457 nicotine device substance, or a prefilled nontherapeutic nicotine device.
- 458 ~~(13)~~ (14) "Place of business" includes:
- 459 (a) a shop;
- 460 (b) a store;
- 461 (c) a factory;
- 462 (d) a public garage;

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- 269 (e) an office;
- 270 (f) a theater;
- 271 (g) a recreation hall;
- 272 (h) a dance hall;
- 273 (i) a poolroom;
- 274 (j) a cafe;
- 275 (k) a cafeteria;
- 276 (l) a cabaret;
- 277 (m) a restaurant;
- 278 (n) a hotel;
- 279 (o) a lodging house;
- 280 (p) a streetcar;
- 281 (q) a bus;
- 282 (r) an interurban or railway passenger coach;
- 283 (s) a waiting room; and
- 284 (t) any other place of business.
- 285 ~~[(14)]~~ (15) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an electronic cigarette substance.
- 287 ~~[(15)]~~ (16) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.
- 289 ~~[(16)]~~ (17) "Premarket authorized or pending electronic cigarette product" means an electronic cigarette product that:
- 291 (a)
- (i) has been approved by an order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c) (1)(A)(i); or
- 294 (ii)
- (A) was marketed in the United States on or before August 8, 2016;
- 295 (B) the manufacturer submitted a premarket tobacco product application for the electronic cigarette product to the United States Food and Drug Administration under 21 U.S.C. Sec. 387j on or before September 9, 2020; and



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- 298 (C) has an application described in Subsection ~~[(16)(a)(ii)]~~ (17)(a)(ii) that either remains under review  
by the United States Food and Drug Administration or a final decision on the application has not  
taken effect; and
- 301 (b) does not exceed:
- 302 (i) 4.0% nicotine by weight per container; or
- 303 (ii) a nicotine concentration of 40 milligrams per milliliter.
- 304 ~~[(17)]~~ (18) "Retail tobacco specialty business" means the same as that term is defined in Section  
26B-7-501.
- 306 ~~[(18)]~~ (19) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted  
smoking equipment.
- 308 ~~{(19)}~~
- ~~{(a)} {"Supplement inhalation product" means a product that:}~~
- 309 ~~(i) {uses heat, ultrasonic technology, or other means to convert a liquid, gel, or solid containing a  
vitamin, mineral, alkaloid other than nicotine, or dietary supplement into an aerosol or vapor;  
and}~~
- ~~(ii) {is used by placing the product directly on or near an individual's mouth.}~~
- 313 ~~{(b)} {"Supplement inhalation product" includes:}~~
- 314 ~~{(i)} {a component of the product described in Subsection (19)(a); or}~~
- 315 ~~{(ii)} {an accessory sold in the same package as the product described in Subsection (19)(a).}~~
- 317 ~~{(c)} {"Supplement inhalation product" does not include a product:}~~
- 318 ~~{(i)} {that contains:}~~
- 319 ~~{(A)} {nicotine; or}~~
- 320 ~~{(B)} {a cannabinoid; or}~~
- 321 ~~{(ii)} that is used for aromatherapy and is not used by placing the product directly on or near an  
individual's mouth.}~~
- 323 ~~[(19)]~~ (20)
- (a) "Tobacco paraphernalia" means equipment, product, or material of any kind that is used, intended  
for use, or designed for use to package, repackage, 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.
- 328 (b) "Tobacco paraphernalia" includes:

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- 329 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent  
screens, hashish heads, or punctured metal bowls;
- 331 (ii) water pipes;
- 332 (iii) carburetion tubes and devices;
- 333 (iv) smoking and carburetion masks;
- 334 (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;
- 336 (vi) chamber pipes;
- 337 (vii) carburetor pipes;
- 338 (viii) electric pipes;
- 339 (ix) air-driven pipes;
- 340 (x) chillums;
- 341 (xi) bongs; and
- 342 (xii) ice pipes or chillers.
- 343 (c) "Tobacco paraphernalia" does not include matches or lighters.
- 344 ~~[(20)]~~ (21) "Tobacco product" means:
- 345 (a) a cigar;
- 346 (b) a cigarette; or
- 347 (c) tobacco in any form, including:
- 348 (i) chewing tobacco; and
- 349 (ii) any substitute for tobacco, including flavoring or additives to tobacco.
- 350 ~~[(21)]~~ (22) "Tobacco retailer" means:
- 351 (a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or
- 352 (b) a retail tobacco specialty business.
- 528 Section 6. Section 6 is enacted to read:
- 529 **76-10-117. Illegal distribution of a {supplement} non-nicotine inhalation product.**
- 355 (1) Terms defined in Sections 76-1-101.5 and 76-10-101 apply to this section.
- 356 (2) An actor commits illegal distribution of a {supplement} non-nicotine inhalation product if the actor  
gives, distributes, sells, offers for sale, or furnishes to any person a {supplement} non-nicotine  
inhalation product that {has} is not {been approved for sale in interstate commerce by the United  
States Food and Drug Administration} listed on the registry described in Section 59-14-810.

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- 360 (3) A violation of Subsection (2) is:  
361 (a) a class C misdemeanor on the first offense; or  
362 (b) a class B misdemeanor on a subsequent offense.

537 Section 7. **Effective date.**

This bill takes effect on May 7, 2025.

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