

Matt MacPherson proposes the following substitute bill:

Tobacco and Electronic Cigarette Enforcement Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Utah Code Sections Affected:**AMENDS:**

10-8-41.6 (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

26B-7-501 (Effective upon governor's approval), as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-7-505 (Effective upon governor's approval), as last amended by Laws of Utah 2024, Chapter 470

26B-7-509 (Effective upon governor's approval), as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-7-511 (Effective upon governor's approval), as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-7-518 (Effective upon governor's approval), as renumbered and amended by Laws

of Utah 2023, Chapter 308

26B-7-521 (Effective upon governor's approval), as renumbered and amended by Laws of Utah 2023, Chapter 308

53-1-106 (Effective upon governor's approval), as last amended by Laws of Utah 2024, Chapter 506

59-14-102 (Effective upon governor's approval), as last amended by Laws of Utah 2022, Chapter 199

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

63I-2-226 (Effective upon governor's approval), as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

63I-2-259 (Effective upon governor's approval), 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

76-10-104 (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

76-10-105.1 (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

76-10-112 (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

76-10-114 (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

26B-7-523 (Effective upon governor's approval), Utah Code Annotated 1953

59-14-901 (Effective 01/01/26), Utah Code Annotated 1953

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

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

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

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

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

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

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

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

104 **76-10-113.2 (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,
107 Chapter 470

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

109

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**
113 **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;

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
128 Section 26B-1-201.

129 (c) "Electronic cigarette product" means the same as that term is defined in Section

76-10-101.

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

~~[(d)]~~ (e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

~~[(e)]~~ (f) "Local health department" means the same as that term is defined in Section 26A-1-102.

~~[(f)]~~ (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

~~[(g)]~~ (h) "Retail tobacco specialty business" means a commercial establishment in which:

(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;

(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;

(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;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;~~[-or]~~

(v) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products~~[-]~~ ; or

(vi) any flavored electronic cigarette product is sold.

~~[(h)]~~ (i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

~~[(i)]~~ (j) "Tobacco product" means:

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

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

(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.

(3)(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.

(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).

(4)(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:

- (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 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:

- (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; and
- (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:

- (i) requires a municipality to issue a retail tobacco specialty business license; or
- (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.

(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,
199 Part 16, Pattern of Unlawful Activity Act;
- 200 (ii) if a licensee violates federal law or federal regulations restricting the sale and
201 distribution of tobacco products or electronic cigarette products to protect children
202 and adolescents;
- 203 (iii) upon the recommendation of the department or a local health department under
204 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
205 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
209 license to conduct business as a retail tobacco specialty business;
- 210 (ii) the retail tobacco specialty business is operating in a municipality in accordance
211 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
213 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
214 high school.
- 215 (b) A retail tobacco specialty business may maintain an exemption under Subsection
216 (7)(a) if:
- 217 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
218 or permanent revocation;
- 219 (ii) the retail tobacco specialty business does not close for business or otherwise
220 suspend the sale of tobacco products, electronic cigarette products, or nicotine
221 products for more than 60 consecutive days;
- 222 (iii) the retail tobacco specialty business does not substantially change the business
223 premises or business operation; and
- 224 (iv) the retail tobacco specialty business maintains the right to operate under the
225 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
231 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
233 general tobacco retailer permit or a retail tobacco specialty business permit under
234 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
235 Nicotine Products, by the local health department having jurisdiction over the area
236 in which the retail tobacco specialty business is located;
- 237 (ii) the retail tobacco specialty business is operating in the municipality in accordance
238 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
240 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
241 high school.
- 242 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may
243 maintain an exemption under Subsection (7)(c) if:
- 244 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
245 retail tobacco specialty business permit from the local health department having
246 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
248 lapse or permanent revocation;
- 249 (iii) the retail tobacco specialty business does not close for business or otherwise
250 suspend the sale of tobacco products, electronic cigarette products, or nicotine
251 products for more than 60 consecutive days;
- 252 (iv) the retail tobacco specialty business does not substantially change the business
253 premises or business operation as the business existed when the retail tobacco
254 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
256 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
262 located within 1,000 feet of a public or private kindergarten, elementary, middle,
263 junior high, or high school before July 1, 2022, is exempt from Subsection
264 (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

- (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).

Section 2. Section **17-50-333** is amended to read:

17-50-333 (Effective upon governor's approval). Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

- (i) a public or private kindergarten, elementary, middle, junior high, or high school;
- (ii) a licensed child-care facility or preschool;
- (iii) a trade or technical school;
- (iv) a church;
- (v) a public library;
- (vi) a public playground;
- (vii) a public park;
- (viii) a youth center or other space used primarily for youth oriented activities;
- (ix) a public recreational facility;
- (x) a public arcade; or
- (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

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

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

~~[(d)]~~ (e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

~~[(e)]~~ (f) "Local health department" means the same as that term is defined in Section 26A-1-102.

~~[(f)]~~ (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

~~[(g)]~~ (h) "Retail tobacco specialty business" means a commercial establishment in which:

- (i) sales of tobacco products, electronic cigarette products, and nicotine products

- 300 account for more than 35% of the total quarterly gross receipts for the
301 establishment;
- 302 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
303 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
305 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
309 tobacco specialty business;~~[-or]~~
- 310 (v) the retail space features a self-service display for tobacco products, electronic
311 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
314 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
319 of the state by the state or by the delegation of the state's police power to other
320 governmental entities.
- 321 (3)(a) A person may not operate a retail tobacco specialty business in a county unless the
322 person obtains a license from the county in which the retail tobacco specialty
323 business is located.
- 324 (b) A county may only issue a retail tobacco specialty business license to a person if the
325 person complies with the provisions of Subsections (4) and (5).
- 326 (4)(a) Except as provided in Subsection (7), a county may not issue a license for a
327 person to conduct business as a retail tobacco specialty business if the retail tobacco
328 specialty business is located within:
- 329 (i) 1,000 feet of a community location;
- 330 (ii) 600 feet of another retail tobacco specialty business; or
- 331 (iii) 600 feet from property used or zoned for:
- 332 (A) agriculture use; or
- 333 (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:

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

(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.

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

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

(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;

(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

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

(7)(a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is

exempt from Subsection (4) if:

- (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;
- (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
- (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.

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

- (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;
- (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;
- (iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and
- (iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:
 - (A) ~~[Title 26, Chapter 38, Utah Indoor Clean Air Act]~~ Section 26B-7-503;
 - (B) zoning ordinances;
 - (C) building codes; and
 - (D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

- (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;
- (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
- (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.
- (d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:
- (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;
 - (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;
 - (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;
 - (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
 - (v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:
 - (A) ~~[Title 26, Chapter 38, Utah Indoor Clean Air Act]~~ Section 26B-7-503;
 - (B) zoning ordinances;
 - (C) building codes; and
 - (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- (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:
- (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
 - (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).

Section 3. Section **26B-7-501** is amended to read:

26B-7-501 (Effective upon governor's approval). Definitions.

As used in this part:

- (1) "Community location" means the same as that term is defined:
- (a) as it relates to a municipality, in Section 10-8-41.6; and
 - (b) as it relates to a county, in Section 17-50-333.
- (2) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.
- (3) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- (4) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.
- (5) "Employee" means an employee of a tobacco retailer.
- (6) "Enforcing agency" means the department, or any local health department enforcing the provisions of this part.
- (7) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- ~~[(7)]~~ (8) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.
- ~~[(8)]~~ (9) "Local health department" means the same as that term is defined in Section 26A-1-102.
- ~~[(9)]~~ (10) "Manufacture" includes:
- (a) to cast, construct, or make electronic cigarettes; or
 - (b) to blend, make, process, or prepare an electronic cigarette substance.
- ~~[(10)]~~ (11) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:
- (a) is prefilled by the electronic cigarette substance manufacturer; and
 - (b) the electronic cigarette manufacturer does not intend for a consumer to open.
- ~~[(11)]~~ (12) "Manufacturer sealed electronic cigarette product" means:
- (a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not intend for a consumer to open or refill; or
 - (b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.
- ~~[(12)]~~ (13) "Nicotine" means the same as that term is defined in Section 76-10-101.
- ~~[(13)]~~ (14) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- (15) "Nicotine restricted individual" means the same as that term is defined in Section 76-10-101.
- ~~[(14)]~~ (16) "Non-tobacco shisha" means any product that:
- (a) does not contain tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

~~[(15)]~~ (17) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this part.

~~[(16)]~~ (18) "Permit" means a tobacco retail permit issued under Section 26B-7-507.

~~[(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:

(a) buildings, offices, shops, elevators, or restrooms;

(b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;

(d) taverns as defined in Section 32B-1-102, or cabarets;

(e) shopping malls, retail stores, grocery stores, or arcades;

(f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;

(g) barber shops, hair salons, or laundromats;

(h) sports or fitness facilities;

(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;

(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

(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;

(k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;

(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;

(m) any facility rented or leased for private functions from which the general public is

504 excluded and arrangements for the function are under the control of the function
505 sponsor;

506 (n) any workplace that is not a place of public access or a publicly owned building or
507 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
509 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
513 Card Act;

514 (ii) a valid identification that:

515 (A) is substantially similar to an identification card issued under Title 53, Chapter
516 3, Part 8, Identification Card Act;

517 (B) is issued in accordance with the laws of a state other than Utah in which the
518 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
522 Driver License Act, or in accordance with the laws of the state in which the valid
523 driver license is issued;

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

525 (A) includes date of birth; and

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
529 with Section 53-3-207.

530 ~~[(19)]~~ (21) "Publicly owned building or office" means any enclosed indoor place or portion
531 of a place owned, leased, or rented by any state, county, or municipal government, or by
532 any agency supported by appropriation of, or by contracts or grants from, funds derived
533 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:

(a) contains tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

~~[(22)]~~ (24) "Smoking" means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:

(i) tobacco or any plant product intended for inhalation;

(ii) shisha or non-tobacco shisha;

(iii) nicotine;

(iv) a natural or synthetic tobacco substitute; or

(v) a natural or synthetic flavored tobacco product;

(c) using an electronic cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.

~~[(23)]~~ (25) "Tax commission license" means a license issued by the State Tax Commission under:

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

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

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

~~[(24)]~~ (26) "Tobacco product" means:

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

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

~~[(25)]~~ (27) "Tobacco retailer" means a person that is required to obtain a tax commission license.

Section 4. Section **26B-7-505** is amended to read:

26B-7-505 (Effective upon governor's approval). Electronic cigarette products -- Labeling -- Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.

(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:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(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:

(a) labeling;

~~[(b) nicotine content;]~~

~~[(c)] (b)~~ packaging; and

~~[(d)] (c)~~ product quality.

(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).

(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).

(c) A product described in Subsection (2) may not exceed:

(i) 5% nicotine by weight per container; or

(ii) a nicotine concentration of 59 milligrams per milliliter.

~~[(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.

~~(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.

(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).

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

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

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

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

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

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

(ii) contains nicotine.

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

"This product contains nicotine."

(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.

(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

- 640 (C) federal law; and
- 641 (iv) flavor descriptions that describe the fruit, herb, or spice flavor profile the product
- 642 is attempting to replicate without additional superlatives or intensifiers.
- 643 (f) When conducting a review of a flavored electronic cigarette product for inclusion in
- 644 the registry described in Section 59-14-908, the department may request samples of
- 645 the product's packaging to ensure compliance with this section.

646 Section 5. Section **26B-7-505.1** is enacted to read:

647 **26B-7-505.1 (Effective upon governor's approval). Temporary flavored**

648 **electronic cigarette product registry.**

- 649 (1) The department shall create a publicly available temporary flavored electronic cigarette
- 650 registry on or before May 1, 2025.
- 651 (2) The registry shall consist of flavored electronic cigarette products that:
- 652 (a)(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
- 660 character; or
- 661 (ii) appear to imitate a food or other product trademark or trade dress that are or have
- 662 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
- 665 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
- 668 the registry described in Section 59-14-908 is operational.

669 Section 6. Section **26B-7-509** is amended to read:

670 **26B-7-509 (Effective upon governor's approval). 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:

- (i) [~~\$30~~] \$500 for a new permit;
- (ii) [~~\$20~~] \$475 for a permit renewal; or
- (iii) [~~\$30~~] \$500 for reinstatement of a permit that has been revoked, suspended, or allowed to expire.

(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 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
- (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

(d) implement security standards that include an electronic video monitoring system with:

- (i) at least one 19-inch or greater call-up monitor;
- (ii) a printer, capable of producing a clear still photo from any video camera image;
- (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:
 - (A) all points of entry; and
 - (B) each point-of-sale;
- (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;
- (v) a surveillance system with:
 - (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
 - (B) a storage system on a remote server which has restricted access to protect from tampering;
- (vi) a failure notification system that provides an audible or visual notification of an error within the electronic monitoring system; and
- (vii) a date and time stamp embedded on video camera recordings; and

(e) place a sign in a publicly viewable area that notifies patrons that the patrons are under surveillance.

(2) A retail tobacco specialty business may not:

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

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

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

(b) The department shall:

(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;

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

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

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

Section 8. Section **26B-7-518** is amended to read:

26B-7-518 (Effective upon governor's approval). Penalties.

(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.

(b) [Hf] 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).

(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.

(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.

(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:

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

(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;

(c) on a third violation at the same retail location that occurs within two years after two

776 previous violations, impose:

777 (i) a suspension of the permit for 30 consecutive business days within 60 days after
778 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;

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

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

786 (3) If ~~[a violation is found in an investigation of]~~ a general tobacco retailer ~~[by a law~~
787 ~~enforcement agency under Section 77-39-101 for the sale of a tobacco product, an~~
788 ~~electronic cigarette product, or a nicotine product to an individual under 21 years old~~
789 ~~and the violation is committed by the owner of the general tobacco retailer]~~ sells a
790 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
793 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~~
797 ~~law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an~~
798 ~~electronic cigarette product, or a nicotine product to an individual under 21 years old]~~
799 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
805 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:

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

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

(b) A person whose permit:

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

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

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

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

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

(7) If a general tobacco retailer is found to be selling a flavored electronic cigarette product, the enforcing agency shall:

(a) on the first violation:

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

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

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

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

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

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

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

(8)(a) Only a law enforcement agency may conduct an investigation or inspection of a retail tobacco specialty business for violations of this part.

(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.

Section 9. Section **26B-7-521** is amended to read:

**26B-7-521 (Effective upon governor's approval). Verification of proof of age --
Verification of identification -- Notification of law enforcement.**

(1) As used in this section:

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

(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

- 878 regarding whether a purchaser is a nicotine restricted individual.
- 879 (d) A retail tobacco specialty business may not sell a tobacco product, nicotine product,
- 880 or electronic cigarette product to a nicotine restricted individual.
- 881 (e) A retail tobacco specialty business shall notify the Department of Public Safety when
- 882 an individual purchases more than 10 electronic cigarette products in a single
- 883 purchase.
- 884 (5)(a) A retail tobacco specialty business may not disclose information obtained under
- 885 this section except as provided under this part.
- 886 (b) Information obtained under this section:
- 887 (i) shall be kept for at least 180 days; and
- 888 (ii) is subject to inspection upon request by a peace officer or the representative of an
- 889 enforcing agency.
- 890 (6)(a) If an employee does not verify proof of age under this section, the employee may
- 891 not permit an individual to:
- 892 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or
- 893 (ii) purchase a tobacco product or an electronic cigarette product.
- 894 (b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years
- 895 old may be permitted to enter a retail tobacco specialty business if the individual is:
- 896 ~~[(i) accompanied by a parent or legal guardian who provides proof of age; or]~~
- 897 ~~[(ii)(A)]~~ (i) present at the retail tobacco specialty business solely for the purpose of
- 898 providing a commercial service to the retail tobacco specialty business, including
- 899 making a commercial delivery;
- 900 ~~[(B)]~~ (ii) monitored by the proprietor of the retail tobacco specialty business or an
- 901 employee of the retail tobacco specialty business; and
- 902 ~~[(C)]~~ (iii) not permitted to make any purchase or conduct any commercial transaction
- 903 other than the service described in Subsection (6)(b)(ii)(A).
- 904 (7) To determine whether the individual described in Subsection (2) is 21 years old or
- 905 older, the following may request an individual described in Subsection (2) to present
- 906 proof of age:
- 907 (a) an employee;
- 908 (b) a peace officer; or
- 909 (c) a representative of an enforcing agency.
- 910 Section 10. Section **26B-7-523** is enacted to read:
- 911 **26B-7-523 (Effective upon governor's approval). RFID tracking.**

- 912 (1) As used in this section, "RFID" means radio-frequency identification.
- 913
- 914 (2) Beginning May 15, 2026, a retail tobacco specialty business shall have in place an
- 915 inventory control system that tracks flavored electronic cigarette products.
- 916 (3) The inventory control system shall have an RFID tag directly attached to the flavored
- 917 electronic cigarette product in which:
- 918 (a) each flavored electronic cigarette product is issued a unique identification number
- 919 via an RFID tag; and
- 920 (b) the tag is placed in a position that:
- 921 (i) is affixed directly on the product;
- 922 (ii) not affixed to any packaging; and
- 923 (iii) can be clearly read and include the following information:
- 924 (A) a unique identification number;
- 925 (B) the name of the retail tobacco specialty business that sells the product; and
- 926 (C) the date of sale of the flavored electronic cigarette product.
- 927 (4) A retail tobacco specialty business shall maintain the information required by this
- 928 section for at least 180 days after the day on which the flavored electronic cigarette
- 929 product leaves the retail tobacco specialty business.
- 930 (5) Notwithstanding any other provision of law and beginning May 15, 2026, a flavored
- 931 electronic cigarette product may not be sold in the state if the product does not meet the
- 932 RFID requirements of this section.

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

934 **53-1-106 (Effective upon governor's approval). Department**

935 **duties -- Powers.**

- 936 (1) In addition to the responsibilities contained in this title, the department shall:
- 937 (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code,
- 938 including:
- 939 (i) setting performance standards for towing companies to be used by the department,
- 940 as required by Section 41-6a-1406; and
- 941 (ii) advising the Department of Transportation regarding the safe design and
- 942 operation of school buses, as required by Section 41-6a-1304;
- 943 (b) make rules to establish and clarify standards pertaining to the curriculum and
- 944 teaching methods of a motor vehicle accident prevention course under Section
- 945 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;
- (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;
- (f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;
- (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;
- (h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact;
- (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:
 - (i) under this title;
 - (ii) by the department; or
 - (iii) by an agency or division within the department;
- (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:
 - (i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;
 - (ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and
 - (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;
- (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;
- (l) fulfill the duties described in Sections 77-36-2.1 and 78B-7-120 related to lethality

assessments;[~~and~~]

(m) fulfill the duties described in Section 63L-13-201 related to restricted foreign entities[~~;~~]
; and

(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.

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

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

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

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

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

As used in this chapter:

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

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

(a) regardless of:

(i) the size of the roll;

(ii) the shape of the roll;

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

or

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

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

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

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

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

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

(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:
- 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
- 1025 76-10-101.
- 1026 (9) "Electronic cigarette substance" means the same as that term is defined in Section
- 1027 76-10-101.
- 1028 (10) "Flavored electronic cigarette product" means the same as that term is defined in
- 1029 Section 76-10-101.
- 1030 ~~[(10)]~~ (11) "Importer" means a person that imports into the United States, either directly or
- 1031 indirectly, a finished cigarette for sale or distribution.
- 1032 ~~[(11)]~~ (12) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or
- 1033 any other person doing business as a distributor or retailer of cigarettes on tribal lands
- 1034 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
- 1042 person that:
- 1043 (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or
- 1044 (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels,
- 1045 repackages, relabels, or imports an electronic cigarette product or a nicotine
- 1046 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
- 1051 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 1052 (c) is not intended to be:
- 1053 (i) smoked; or
- 1054 (ii) placed in the nasal cavity; and
- 1055 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or
- 1056 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
- 1065 Section 76-10-101.
- 1066 ~~[(18)]~~ (19) "Nontherapeutic nicotine device substance" means the same as that term is
- 1067 defined in Section 76-10-101.
- 1068 ~~[(19)]~~ (20) "Nontherapeutic nicotine product" means the same as that term is defined in
- 1069 Section 76-10-101.
- 1070 ~~[(20)]~~ (21) "Prefilled electronic cigarette" means the same as that term is defined in Section
- 1071 76-10-101.
- 1072 ~~[(21)]~~ (22) "Prefilled nontherapeutic nicotine device" means the same as that term is defined
- 1073 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
- 1076 a consumer in the state; or
- 1077 (b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine
- 1078 product to a consumer in the state.
- 1079 ~~[(23)]~~ (24) "Stamp" means the indicia required to be placed on a cigarette package that
- 1080 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.

(b) "Tobacco product" includes:

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

(ii) a little cigar; or

(iii) moist snuff.

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

~~[(25)]~~ (26) "Tribal lands" means land held by the United States in trust for a federally recognized Indian tribe.

Section 13. Section **59-14-810** is amended to read:

59-14-810 (Effective upon governor's approval). Electronic cigarette product registry.

(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:

(a) the manufacturer agrees to comply with this section; and

(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.

(2) When submitting the certification a manufacturer shall submit a form that separately lists each electronic cigarette product that is sold in this state.

(3)(a) Each certification form shall include:

(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

(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;

(iii) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added to the registry in the first instance; and

(iv) information described in Subsection (10) if applicable.

(b) The commission shall make the materials submitted under Subsection (3)(a)

- 1116 available to the Department of Health and Human Services for review and approval.
- 1117 (c) A manufacturer required to submit a certification form under this section shall notify
- 1118 the commission and the Department of Health and Human Services in a manner
- 1119 prescribed by the commission within 30 days of any material change making the
- 1120 certification form no longer accurate, including:
- 1121 (i) the issuance or denial of a marketing authorization or other order by the United
- 1122 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
- 1124 any court that affects the ability of the electronic cigarette product to be
- 1125 introduced or delivered into interstate commerce for commercial distribution in
- 1126 the United States.
- 1127 (d) On or before January 31 of each year and in a manner prescribed by the commission,
- 1128 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
- 1132 that is manufactured by the manufacturer.
- 1133 (e) A manufacturer may amend a certification, including to add additional electronic
- 1134 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
- 1137 recertification under Subsection (3)(d); and
- 1138 (ii) remove a manufacturer or an electronic cigarette product that is not recertified
- 1139 from the registry by March 15.
- 1140 (4)(a) The Department of Health and Human Services shall review materials described
- 1141 in Subsection (3)(a) and notify the commission regarding whether an electronic
- 1142 cigarette product should be included in the registry.
- 1143 (b) On or before October 1, 2024, the commission shall make publicly available on the
- 1144 commission's website a registry that lists each electronic cigarette product
- 1145 manufacturer and each electronic cigarette product for which certification forms have
- 1146 been approved by the Department of Health and Human Services.
- 1147 (c) An electronic cigarette product may not be listed on the registry unless the
- 1148 Department of Health and Human Services determines the requirements of
- 1149 Subsection (3)(a) are met.

- 1150 (5)(a) If the Department of Health and Human Services obtains information that an
1151 electronic cigarette product should not be listed in the registry, the Department of
1152 Health and Human Services shall provide the manufacturer notice and an opportunity
1153 to cure deficiencies before notifying the commission to remove the manufacturer or
1154 products from the registry.
- 1155 (b) Except as provided in Subsection (5)(c), the Department of Health and Human
1156 Services shall comply with Title 63G, Chapter 4, Administrative Procedures Act,
1157 before notifying the commission to remove ~~an~~ a flavored electronic cigarette
1158 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
1164 shall have 30 days from the day on which the product is removed from the registry to
1165 remove the product from any inventory and return the product to the manufacturer for
1166 disposal.
- 1167 (b) After the period described in Subsection (6)(a), any electronic cigarette product of a
1168 manufacturer identified in the notice of removal are contraband and are subject to
1169 penalties under Subsection (8)~~[-and seizure, forfeiture, and destruction under Section~~
1170 ~~26A-1-131]~~.
- 1171 (7)(a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an
1172 electronic cigarette product in this state that is not included in ~~the~~ a registry created
1173 under this section, Section 26B-7-505.1, or Section 59-14-908.
- 1174 (b) A manufacturer may not sell, either directly or through a distributor, wholesaler,
1175 retailer, or similar intermediary or intermediaries, an electronic cigarette product in
1176 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
1178 cigarette product in this state that is not included in the registry shall be subject to a
1179 civil penalty of:
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
1182 offending product is properly listed on the registry.
- 1183 (b) The commission shall suspend the person's license issued under Section 59-14-803

- 1184 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
- 1189 are sold in this state, whether directly or through a distributor, wholesaler, retailer, or
- 1190 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
- 1193 offending product is properly listed on the registry.
- 1194 (d) A manufacturer that falsely represents any information required by a certification
- 1195 form described in this section shall be guilty of a class C misdemeanor for each false
- 1196 representation.
- 1197 (e) A repeated violation of this section shall constitute a deceptive act or practice as
- 1198 provided in Sections 13-11-4 and 13-11a-3 and shall be subject to any remedies or
- 1199 penalties available for a violation of those sections.
- 1200 (9)(a) To assist in ensuring compliance and enforcement of this section~~[-and Section~~
- 1201 ~~26A-1-131]~~, the commission shall disclose to the following entities, upon request,
- 1202 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
- 1208 received under this section, or corresponding laws of other states.
- 1209 (10)(a)~~[(i)]~~ The commission may not list a nonresident manufacturer of an electronic
- 1210 cigarette product in the registry unless:
- 1211 ~~[(A)]~~ (i) the nonresident manufacturer has registered to do business in the state as a
- 1212 foreign corporation or business entity; or
- 1213 ~~[(B)]~~ (ii) the nonresident manufacturer appoints and maintains without interruption
- 1214 the services of an agent in this state to receive any service of process on behalf of
- 1215 the manufacturer.
- 1216 (b) The nonresident manufacturer shall provide the name, address, and telephone
- 1217 number of the agent to the commission.

- (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.
- (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.

(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:

- (a) the status of the registry;
- (b) manufacturers and products included in the registry; and
- (c) revenue and expenditures related to administration of this section~~[- and] .~~
- ~~[(d) enforcement activities undertaken under this section and Section 26A-1-131.]~~

(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 59-14-807.

(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.

Section 14. Section **59-14-901** is enacted to read:

Part 9. Flavored Electronic Cigarette Tax

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

As used in this part:

- (1) "Licensee" means a retail tobacco specialty business that holds a license to sell a flavored electronic cigarette product under this part.
- (2)(a) "Retail price" means the amount charged by a retailer for a flavored electronic cigarette product.
- (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.
- (3) "Retail tobacco specialty business" means the same as that term is defined in Section 26B-7-501.

Section 15. Section **59-14-902** is enacted to read:

59-14-902 (Effective 01/01/26). License to sell flavored electronic cigarette product.

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

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

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

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

(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:

(i) the retailer's name;

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

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

(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.

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

(a) valid only at one fixed business address;

(b) valid for three years;

(c) valid only for a physical location; and

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

(5)(a) The commission shall require a retailer that is responsible under this part for the collection of tax on a flavored electronic cigarette product to post a bond.

(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.

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

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

(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.

(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).

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

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

Section 16. Section **59-14-903** is enacted to read:

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

(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.

(b) The list shall be:

(i) published on the commission website; and

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

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

(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.

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

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

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

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

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

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

Section 17. Section **59-14-904** is enacted to read:

59-14-904 (Effective 01/01/26). Taxation of flavored electronic cigarette products.

(1)(a) Beginning on January 1, 2026, a tax is imposed on the retail sale of a flavored electronic cigarette product.

(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.

(2) The amount of tax imposed under Subsection (1) is .10 multiplied by the retail price of each product sold.

(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.

(4)(a) The retailer shall remit the taxes collected in accordance with this section to the commission.

(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.

Section 18. Section **59-14-905** is enacted to read:

59-14-905 (Effective 01/01/26). Remittance of tax -- Returns -- Invoice required -- Filing requirement-- Exception -- Penalty -- Overpayment.

(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:

(i) the tax collected in the previous calendar quarter; and

(ii) the quarterly tax return.

(b) The tax collected and the return are due on or before the last day of April, July, October, and January.

(2)(a) A consumer that purchases an untaxed flavored electronic cigarette product for use or other consumption shall:

(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 **59-14-906** is enacted to read:

59-14-906 (Effective 01/01/26). 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;

(b) 70% of the amount transferred to the Department of Health and Human Services for use to perform duties related to electronic cigarette product regulation, prevention, and research; and

(c) 5% of the amount in the account to the State Board of Education to pay for the school lunch program described in Section 53E-3-510.

(4) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute revenue generated from the money deposited under Section 59-14-908:

(a) to the commission, in an amount equal to the amount necessary to create and maintain the registry described in Section 59-14-908; and

(b) to the Department of Health and Human Services, in an amount necessary for completing duties described in Section 59-14-908 and duties described in Section 26B-7-505.

(5)(a) The fund shall earn interest.

(b) Interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, before any amount of money is distributed under Subsection (3), the Division of Finance shall distribute an amount to the commission to:

(a) enforce compliance with the tax collection requirements of this part; and

(b) for programming and maintaining the tax created under this part.

Section 20. Section **59-14-907** is enacted to read:

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:

(1) to the local health department for the county where the sale occurs;

(2) to the Department of Health and Human Services; and

(3) to the Department of Public Safety.

Section 21. Section **59-14-908** is enacted to read:

59-14-908 (Effective 01/01/26). Flavored electronic cigarette product registry.

(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:

(a) the manufacturer agrees to comply with this section;

(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

(c) beginning May 15, 2026, the flavored electronic cigarette product is equipped with RFID tracking technology in accordance with Section 26B-7-523.

(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.

(3)(a) Each certification form shall include:

(i) the name of the flavored electronic cigarette product, nicotine content level by percentage, and any flavors contained in the product;

(ii) a nonrefundable \$1,000 fee for each flavored electronic cigarette product that is being added to the registry in the first instance; and

(iii) information described in Subsection (10) if applicable.

(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.

(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.

(d) On or before January 31 of each year and in a manner prescribed by the commission, a manufacturer shall:

(i) recertify that the information contained in the certification is correct and accurate;

(ii) correct or amend information if necessary; and

(iii) pay a \$250 nonrefundable fee for each flavored electronic cigarette product on the registry that is manufactured by the manufacturer.

(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.

(f) The commission shall:

(i) provide an electronic notification to a manufacturer that has not submitted a recertification under Subsection (3)(d); and

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

(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.

(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.

(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.

(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.

(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.

(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
1460 shall have 30 days from the day on which the product is removed from the registry to
1461 remove the product from any inventory and return the product to the manufacturer for
1462 disposal.
- 1463 (b) After the period described in Subsection (6)(a), any flavored electronic cigarette
1464 product of a manufacturer identified in the notice of removal are contraband and are
1465 subject to penalties under Subsection (8).
- 1466 (7)(a) Beginning on January 1, 2026, a person may not sell or offer for retail sale a
1467 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,
1469 retailer, or similar intermediary or intermediaries, a flavored electronic cigarette
1470 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
1472 electronic cigarette product in this state that is not included in the registry shall be
1473 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
1476 offending product is properly listed on the registry.
- 1477 (b) The commission shall suspend the person's license issued under Section 59-14-803
1478 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
1483 registry and are sold in this state, whether directly or through a distributor,
1484 wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil
1485 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
1488 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.

(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.

(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:

(i) the Department of Health and Human Services;

(ii) a local health department;

(iii) a law enforcement agency; or

(iv) the attorney general.

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

(10)(a) The commission may not list a nonresident manufacturer's flavored electronic cigarette products in the registry unless:

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

(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.

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

(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.

(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.

(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:

(a) the status of the registry;

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

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

(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.

(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.

(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.

Section 22. Section **63I-2-226** is amended to read:

63I-2-226 (Effective upon governor's approval). Repeal dates: Titles 26 through 26B.

(1) Section 26B-1-241, Tardive dyskinesia, is repealed July 1, 2024.

(2) Section 26B-1-302, National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account, is repealed July 1, 2024.

(3) Section 26B-1-309, Medicaid Restricted Account, is repealed July 1, 2024.

(4) Section 26B-1-313, Cancer Research Restricted Account, is repealed July 1, 2024.

(5) Section 26B-1-420, Cannabis Research Review Board, is repealed July 1, 2026.

(6) Subsection 26B-1-421(9)(a), regarding a report to the Cannabis Research Review Board, is repealed July 1, 2026.

(7) Section 26B-1-423, Rural Physician Loan Repayment Program Advisory Committee -- Membership -- Compensation -- Duties, is repealed July 1, 2026.

(8) Section 26B-2-243, Data collection and reporting requirements concerning incidents of abuse, neglect, or exploitation, is repealed July 1, 2027.

(9) Section 26B-3-142, Long-acting injectables, is repealed July 1, 2024.

(10) Subsection 26B-3-215(5), regarding reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(11) Subsection 26B-4-201(5), regarding the Cannabis Research Review Board, is repealed July 1, 2026.

(12) Subsection 26B-4-212(1)(b), regarding the Cannabis Research Review Board, is repealed July 1, 2026.

(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
 1559 Loan Repayment Program Advisory Committee, is repealed July 1, 2026.
- 1560 (15) Subsection 26B-4-703(3)(c), regarding expenses for the Rural Physician Loan
 1561 Repayment Program, is repealed July 1, 2026.
- 1562 (16) Subsection 26B-4-703(6)(b), regarding recommendations from the Rural Physician
 1563 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
 1565 January 2, 2025.
- 1566 (18) Section 26B-5-302.5, Study concerning civil commitment and the Utah State Hospital,
 1567 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
 1570 repealed July 1, 2025.
- 1571 (21) Subsection 26B-7-509(2)(d), regarding the 2025 fiscal year renewal fee, is repealed
 1572 July 1, 2026.
- 1573 Section 23. Section **63I-2-259** is amended to read:
- 1574 **63I-2-259 (Effective upon governor's approval). Repeal dates: Title 59.**
- 1575 (1) Subsection 59-7-610(8), regarding claiming a tax credit in the same taxable year as the
 1576 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
 1578 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
 1581 31, 2024.
- 1582 (5) Subsection 59-10-1007(8), regarding claiming a tax credit in the same taxable year as
 1583 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
 1585 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,
 1587 2024.
- 1588 (8) Section 59-10-908, Flavored electronic cigarette product registry, is repealed July 1,
 1589 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:

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

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

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

(A) an e-cigarette;

(B) an e-cigar;

(C) an e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).

(c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26B-4-201.

(5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.

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

(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.

(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.

(c) "Flavored electronic cigarette product" does not include an electronic cigarette product that has a taste or smell of only tobacco or menthol.

(8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.

(9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.

(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:

(a) law; or

(b) court order.

~~[(10)]~~ (11)(a) "Nontherapeutic nicotine device" means a device that:

(i) has a pressurized canister that is used to administer nicotine to the user through inhalation or intranasally;

(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
1661 replacement therapy.

1662 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a
1663 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
1669 replacement therapy.

1670 ~~[(12)]~~ (13) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a
1671 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;

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.

~~[(15)]~~ (16) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.

~~[(16)]~~ (17) "Premarket authorized or pending electronic cigarette product" means an electronic cigarette product that:

~~[(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

~~[(ii)]~~ (b)[(A)] (i) was marketed in the United States on or before August 8, 2016;

~~[(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

~~[(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]~~

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

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

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

~~[(17)]~~ (18) "Retail tobacco specialty business" means the same as that term is defined in Section 26B-7-501.

~~[(18)]~~ (19) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

~~[(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, 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.

(b) "Tobacco paraphernalia" includes:

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

(ii) water pipes;

(iii) carburetion tubes and devices;

(iv) smoking and carburetion masks;

(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;

(vi) chamber pipes;

(vii) carburetor pipes;

(viii) electric pipes;

(ix) air-driven pipes;

(x) chillums;

(xi) bongs; and

(xii) ice pipes or chillers.

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

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

(a) a cigar;

(b) a cigarette; or

(c) tobacco in any form, including:

(i) chewing tobacco; and

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

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

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

(b) a retail tobacco specialty business.

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

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.

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

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

(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.

(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:

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

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

~~[(c)]~~ (b) a class A misdemeanor on any subsequent offense.

(3) This section does not apply to conduct of an employee of a tobacco retailer that is a

violation of Section 76-10-114.

- (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.
- (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.

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

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

- (1) As used in this section, "provides":
- (a) includes selling, giving, furnishing, sending, or causing to be sent; and
- (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.
- (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.
- (b) An individual who violates this section is guilty of:
- (i) a class [C] B misdemeanor on the first offense; and
- (ii) a class [B] A misdemeanor on any subsequent offense.

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

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.

- (1) As used in this section:
- (a)(i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.
- (ii) "Face-to-face exchange" does not include a sale through a:
- (A) vending machine;[~~or~~]
- (B) self-service display[~~;~~]; or
- (C) a drive through.
- (b) "Retailer" means a person who:

- 1796 (i) sells a tobacco product, an electronic cigarette product, or a nicotine product to an
 1797 individual for personal consumption; or
- 1798 (ii) operates a facility with a vending machine that sells a tobacco product, an
 1799 electronic cigarette product, or a nicotine product.
- 1800 (c) "Self-service display" means a display of a tobacco product, an electronic cigarette
 1801 product, or a nicotine product to which the public has access without the intervention
 1802 of a retailer or retailer's employee.
- 1803 (2) Except as provided in Subsection (3), a retailer may sell a tobacco product, an electronic
 1804 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:
- 1806 (a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;
 1807 or
- 1808 (b) a sale from a vending machine or self-service display that is located in an area of a
 1809 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
 1812 be present[; ~~or~~].
- 1813 [~~(c) 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
 1815 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
 1818 providing a service to the retail tobacco specialty business, including making a
 1819 delivery;
- 1820 [~~(ii)~~] (b) monitored by the proprietor of the retail tobacco specialty business or an
 1821 employee of the retail tobacco specialty business; and
- 1822 [~~(iii)~~] (c) not permitted to make any purchase or conduct any commercial transaction
 1823 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~~
 1825 ~~into an area described in Subsection (3)(b) or into a retail tobacco specialty business~~
 1826 ~~may not allow the individual to purchase a tobacco product, an electronic cigarette~~
 1827 ~~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
1833 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**
1836 **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
1839 use those products because research indicates that they may cause mouth or oral
1840 cancers;

1841 (b) the use of smokeless tobacco among juveniles in this state is [~~increasing rapidly~~] a
1842 matter of great concern;

1843 (c) the use of electronic cigarette products may lead to unhealthy behavior such as the
1844 use of tobacco products; and

1845 (d) it is necessary to restrict the gift of the products described in this Subsection (1) in
1846 the interest of the health of the citizens of this state.

1847 (2)(a) Except as provided in Subsection (3), it is unlawful for a manufacturer,
1848 wholesaler, and retailer to:

1849 (i) give or distribute without charge any smokeless tobacco, chewing tobacco, or
1850 electronic cigarette product in this state;

1851 (ii) sell, offer for sale, or furnish any electronic cigarette product at less than the cost,
1852 including the amount of any applicable tax, of the product to the manufacturer,
1853 wholesaler, or retailer; or

1854 (iii) give, distribute, sell, offer for sale, or furnish any electronic cigarette product for
1855 free or at a lower price because the recipient of the electronic cigarette product
1856 makes another purchase.

1857 (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection
1858 (2)(a)(ii) does not include a discount for:

1859 (i) a physical manufacturer coupon:

1860 (A) that is surrendered to the wholesaler or retailer at the time of sale; and

1861 (B) for which the manufacturer will reimburse the wholesaler or the retailer for
1862 the full amount of the discount described in the manufacturer coupon and
1863 provided to the purchaser;

- (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
- (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.

(c) Any individual who violates this section is guilty of:

- (i) a class [C] B misdemeanor for the first offense; and
- (ii) a class [B] A misdemeanor for any subsequent offense.

(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.

Section 29. Section **76-10-112** is amended to read:

76-10-112 (Effective upon governor's approval). Prohibition of distribution of a tobacco product -- Exceptions.

- (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.
- (2) An individual who violates this subsection is guilty of:
- (a) a class [C] B misdemeanor for the first offense; and
- (b) a class [B] A misdemeanor for any subsequent offense.
- (3) A tobacco product may be distributed to an adult without charge at a professional convention where the general public is excluded.
- (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.

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

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

- (1) [~~Subject to Subsection (2), it is~~] 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.
- [~~(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.~~]
- [~~(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.

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

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

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

Section 31. Section **76-10-113.1** is enacted to read:

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

(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 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 **76-10-113.2** 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:

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

(ii) subject to:

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

(B) compensatory service.

Section 34. **Repealer.**

This bill repeals:

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

Section 35. **Effective Date.**

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

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

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

(i) upon approval by the governor;

(ii) without the governor's signature, the day following the constitutional time limit of

Utah Constitution, Article VII, Section 8; or

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

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

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

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

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

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

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

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

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

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

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:
- (1) Subsection 76-9-1104(3) enacted in H.B. 21 be amended to read:
"(3) A violation of Subsection (2) is:
(a) a class B misdemeanor on the first offense; or
(b) a class A misdemeanor on the second or subsequent offense.";
 - (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:
"Face-to-face exchange" does not include a sale through a vending machine,
self-service display, or drive-through.
~~[(A) vending machine; or~~
~~[(B) self-service display.] "~~
 - (3) Subsection 76-9-1107(3) enacted in H.B. 21 be amended to read:
"(3) A violation of Subsection (2) is:
(a) a class B misdemeanor on the first offense; or
(b) a class A misdemeanor on the second or subsequent offense.";
 - (4) Subsection 76-9-1107(4)(b)(ii)(A) enacted in H.B. 21 be deleted and the remaining subsections be renumbered accordingly;
 - (5) the following subsections in Section 76-9-1108 enacted in H.B. 21 be deleted and the remaining subsections be renumbered accordingly:
(a) Subsection 76-9-1108(4)(a); and
(b) Subsection 76-9-1108(5);
 - (6) Subsection 76-9-1108(3) enacted in H.B. 21 be amended to read:
"(3) A violation of Subsection (2) is:
(a) a class B misdemeanor on the first offense; or
(b) a class A misdemeanor on the second or subsequent offense.";
 - (7) Subsection 76-9-1112(3) enacted in H.B. 21 be amended to read:
"(3) A violation of Subsection (2) is:
(a) a class B misdemeanor on the first offense; or
(b) a class A misdemeanor on the second or subsequent offense.";
 - (8) Section 76-9-1114 (renumbered from Section 76-10-113 in H.B. 21) be amended to read:

~~"[(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.]~~

~~[(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.]~~

~~[(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.]~~

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

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

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

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) An actor commits illegal distribution of a flavored electronic cigarette product by a tobacco retailer if the actor:

(a) is a tobacco retailer that is not a retail tobacco specialty business; and

(b) gives, distributes, sells, offers for sale, or furnishes a flavored electronic cigarette product to any person.

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

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

(b) a class A misdemeanor on the second or subsequent offense."; and

(9) Section 76-9-1115 enacted in H.B. 21 be amended to read:

"(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) Beginning January 1, 2026, an actor commits illegal distribution of an electronic cigarette product without federal authorization if:

(a) the actor is not a retail tobacco specialty business; and

(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.

(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."