

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **26B-1-310**, as last amended by Laws of Utah 2025, First Special Session, Chapter 9

32 **76-9-1102**, as renumbered and amended by Laws of Utah 2025, Chapter 173

33 **76-9-1116**, as renumbered and amended by Laws of Utah 2025, Chapter 173

34 **77-39-101**, as last amended by Laws of Utah 2025, Chapters 114, 173

35 ENACTS:

36 **4-45a-101**, Utah Code Annotated 1953

37 **4-45a-102**, Utah Code Annotated 1953

38 **4-45a-103**, Utah Code Annotated 1953

39 **4-45a-104**, Utah Code Annotated 1953

40 **4-45a-105**, Utah Code Annotated 1953

41 **59-14-106**, Utah Code Annotated 1953

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

44 Section 1. Section **4-45a-101** is enacted to read:

45 **CHAPTER 45a. Specialized Product Regulation**

46 **4-45a-101 . Definitions.**

47 As used in this section:

48 (1) "Conventional food" means:

49 (a) an article used for food or drink for human or animal consumption or the components
50 of the article; or

51 (b) chewing gum or chewing gum components.

52 (2)(a) "Crime involving a nicotine containing product" means an offense described in
53 any of the following sections:

54 (i) Section 76-9-1102, Illegal sale of clove cigarette;

55 (ii) Section 76-9-1103, Permitting minors to use tobacco or electronic cigarette
56 product in place of business;

57 (iii) Section 76-9-1104, Providing tobacco product, electronic cigarette product, or
58 nicotine product to a minor;

59 (iv) Section 76-9-1105, Providing tobacco paraphernalia to a minor;

60 (v) Section 76-9-1107, Requirement of direct, face-to-face sale -- Restrictions on
61 remote sales;

- 62 (vi) Section 76-9-1108, Illegal presence of a minor inside a retail tobacco specialty
63 business;
- 64 (vii) Section 76-9-1112, Illegal provision of smokeless tobacco or electronic cigarette
65 product;
- 66 (viii) Section 76-9-1113, Illegal distribution of a tobacco product on school property;
67 (ix) Section 76-9-1114, Illegal distribution of a flavored electronic cigarette product;
68 (x) Section 76-9-1115, Illegal distribution of electronic cigarette product without
69 premarket authorization; or
- 70 (xi) Section 76-9-1116, Unlawful sale of a tobacco product, electronic cigarette
71 product, or nicotine product.
- 72 (b) "Crime involving a nicotine containing product" includes a conviction for an offense
73 previously in statute in this state that is the same or substantially similar to an offense
74 described in Subsection (2)(a).
- 75 (3) "Electronic cigarette product" means the same as that term is defined in Section
76 76-9-1101.
- 77 (4) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty
78 business.
- 79 (5) "License" means the license described in Section 4-45a-102.
- 80 (6) "Licensee" means a specialized product retailer licensed under Section 4-45a-102.
- 81 (7) "Nicotine product" means the same as that term is defined in Section 76-9-1101.
- 82 (8) "Product list" means a list of specialized products sold by a licensee.
- 83 (9) "Self-service display" means the same as that term is defined in Section 76-9-1107.
- 84 (10)(a) "Specialized product" means any product intended to be ingested, inhaled,
85 absorbed, or introduced into the human body that is:
- 86 (i) a cannabinoid product as defined in Section 4-41-102;
87 (ii) a kratom product as defined in Section 4-45-102;
88 (iii) a tobacco product that is not tobacco paraphernalia;
89 (iv) a nicotine product;
90 (v) an electronic cigarette substance as defined in Section 76-9-1101;
91 (vi) a prefilled electronic cigarette as defined in Section 76-9-1101; or
92 (vii) a product containing a substance:
- 93 (A) not generally recognized as safe for use in a conventional food product under
94 applicable federal food additive regulations; and
- 95 (B) that is known or intended to have psychoactive, euphoric, analgesic, sedative,

96 or intoxicating effects.

97 (b) "Specialized product" includes a product described in Subsection (10)(a) even if the
98 product complies with the federal Dietary Supplement Health and Education Act, 21
99 U.S.C. Sec. 321(ff) et seq.

100 (c) "Specialized product" does not include a conventional food product that does not
101 contain any substance or product type described in Subsection (10)(a).

102 (11) "Specialized product retailer" means a person that sells a specialized product.

103 (12) "Tobacco product" means:

104 (a) a tobacco product as defined in Section 76-9-1101; or

105 (b) tobacco paraphernalia as defined in Section 76-9-1101.

106 (13) "Tobacco retailer" means a person that is required to obtain a State Tax Commission
107 license for the sale of an electronic cigarette product, nicotine product, or tobacco
108 product.

109 Section 2. Section **4-45a-102** is enacted to read:

110 **4-45a-102 . License.**

111 (1) A specialized product retailer may not sell a specialized product in the state unless the
112 specialized product retailer obtains a license from the department.

113 (2) The department shall charge the following fees to obtain a license under this chapter:

114 (a) \$2,500 for a retail tobacco specialty business;

115 (b) \$600 for any retailer that sells:

116 (i) a cannabinoid product as defined in Section 4-41-102;

117 (ii) a kratom product as defined in Section 4-45-102; or

118 (iii) a product containing a substance:

119 (A) not generally recognized as safe for use in a conventional food product under
120 applicable federal food additive regulations; and

121 (B) that is known or intended to have psychoactive, euphoric, analgesic, sedative,
122 or intoxicating effects; and

123 (c) \$300 for a general tobacco retailer not described in Subsection (2)(b).

124 (3) The term for a license under this section is one year.

125 (4) The department may not issue a license to a person under this section unless the person
126 provides proof that the person has obtained the applicable license, registration, or
127 permit, required by law for each specialized product type that the person sells which
128 may include:

129 (a) a license for a retail tobacco specialty business described in Section 10-8-41.6 and

- 130 Section 17-78-1004;
- 131 (b) a valid permit for a tobacco retailer issued under Title 26B, Chapter 7, Part 5,
- 132 Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health
- 133 department having jurisdiction over the area in which the tobacco retailer is located;
- 134 and
- 135 (c) each appropriate license from the State Tax Commission for each product the person
- 136 will sell that requires a license from the State Tax Commission.
- 137 (5) A person that operates a specialized product retailer without a current and valid license
- 138 described in Subsection (1) is subject to a \$50,000 civil fine.
- 139 (6) A person that operates as a retail tobacco specialty business without the current and
- 140 valid licenses required by law to be a retail tobacco specialty business is subject to a
- 141 \$50,000 civil fine.
- 142 (7) The department shall deposit fees collected under this section into the Qualified Patient
- 143 Enterprise Fund described in Section 26B-1-310.

144 Section 3. Section **4-45a-103** is enacted to read:

145 **4-45a-103 . Applicants.**

- 146 (1) An applicant for a license shall provide the name and address of any individual who has:
- 147 (a) for a publicly traded company, a financial or voting interest of 10% or greater in the
- 148 specialized product retailer;
- 149 (b) for a privately held company, a financial or voting interest in the specialized product
- 150 retailer; or
- 151 (c) the power to direct or cause the management or control of the specialized product
- 152 retailer.
- 153 (2) The department may not issue a license to an applicant if an individual described in
- 154 Subsection (1) has been convicted under state or federal law of:
- 155 (a) a felony in the preceding 10 years;
- 156 (b) a crime involving a nicotine containing product; or
- 157 (c) after December 3, 2018, a misdemeanor or felony for drug distribution.

158 Section 4. Section **4-45a-104** is enacted to read:

159 **4-45a-104 . Registration of products.**

- 160 (1)(a) A licensee shall provide the department a product list.
- 161 (b) At least seven days before selling a specialized product not on the product list, a
- 162 licensee shall notify the department and provide an updated product list that includes
- 163 the additional specialized product.

- 164 (c) For any product on a product list or that is being added to a product list under
 165 Subsection (1)(b), the licensee shall provide the department with access to the
 166 ingredient list for the specialized product.
- 167 (d) The department may remove specialized products from a product list if the
 168 possession or sale of the specialized product violates state law.
- 169 (2) A licensee may not sell a specialized product that is not on the product list provided to
 170 the department.
- 171 (3) If requested by the department to provide a specialized product for inspection or testing,
 172 a licensee shall provide the requested specialized product to the department.
- 173 (4)(a) A licensee that sells a product in violation of Subsection (2) is subject to a \$1,000
 174 fine for each product sold in violation of Subsection (2).
- 175 (b) In addition to the monetary fine described in Subsection (4)(a), a licensee is subject
 176 to the following for violations of Subsection (2):
- 177 (i) for a first violation, a public reprimand posted on the department's website;
 178 (ii) for a second violation, a 30-day license suspension;
 179 (iii) for a third violation, a 60-day license suspension;
 180 (iv) for a fourth violation, a 90-day license suspension; and
 181 (v) for a fifth violation, revocation of the license.

182 Section 5. Section **4-45a-105** is enacted to read:

183 **4-45a-105 . Rulemaking.**

184 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 185 department shall make rules to implement this chapter.

186 Section 6. Section **26B-1-310** is amended to read:

187 **26B-1-310 . Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality**
 188 **-- Uniform fee.**

- 189 (1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."
 190 (2) The fund created in this section is funded from:
- 191 (a) money the department deposits into the fund under Chapter 4, Part 2, Cannabinoid
 192 Research and Medical Cannabis;
- 193 (b) appropriations the Legislature makes to the fund; and
 194 (c) the interest described in Subsection (3).
- 195 (3) Interest earned on the fund shall be deposited into the fund.
- 196 (4)(a) [Money] Except as provided in Subsection (4)(b), money deposited into the fund
 197 may only be used by:

- 232 (2) Except as provided in Subsection (4), an actor commits cigarette or tobacco advertising
 233 violation if the actor displays on a billboard, streetcar sign, streetcar, bus, placard, or on
 234 any other object or place of display, an advertisement of cigarettes, electronic cigarette
 235 products, cigarette papers, cigars, chewing tobacco, nicotine products, or smoking
 236 tobacco or any disguise or substitute of cigarettes, cigarette papers, tobacco, or cigars.
- 237 (3) A violation of Subsection (2) is a class B misdemeanor.
- 238 (4)(a) A dealer of cigarettes, electronic cigarette products, cigarette papers, tobacco,
 239 cigars, nicotine products, or a substitute for cigarettes, cigarette papers, tobacco, or
 240 cigars may have a sign on the front of the dealer's place of business stating that the
 241 dealer is a dealer of cigarettes, electronic cigarette products, cigarette papers,
 242 tobacco, cigars, nicotine products, or a substitute for cigarettes, cigarette papers,
 243 tobacco, or cigars.
- 244 (b) This section does not prohibit the advertisement of an item listed in Subsection (4)(a)
 245 in a newspaper, magazine or periodical printed or circulating in this state.

246 Section 9. Section **76-9-1116** is amended to read:

247 **76-9-1116 . Unlawful sale of a tobacco product, electronic cigarette product, or**
 248 **nicotine product.**

- 249 (1)(a) As used in this section:
- 250 (i) "Compensatory service" means service or unpaid work performed by an
 251 employee, in lieu of the payment of a fine or imprisonment.
- 252 (ii) "Employee" means an employee or an owner of a tobacco retailer.
- 253 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
- 254 (2) An actor commits unlawful sale of a tobacco product, electronic cigarette product, or
 255 nicotine product if the actor:
- 256 (a) is an employee; and
- 257 (b) [~~intentionally or knowingly~~] with criminal negligence, sells or gives a tobacco
 258 product, an electronic cigarette product, or a nicotine product in the course of
 259 business to an individual younger than 21 years old.
- 260 (3) A violation of Subsection (2) is:
- 261 (a) on a first violation:
- 262 (i) an infraction; and
- 263 (ii) subject to:
- 264 (A) a fine not exceeding \$1,000; or
- 265 (B) compensatory service; or

- 266 (b) on a subsequent violation:
267 (i) a class C misdemeanor; and
268 (ii) subject to:
269 (A) a fine not exceeding \$2,000; or
270 (B) compensatory service.

271 Section 10. Section **77-39-101** is amended to read:

272 **77-39-101 . Investigation of sales of alcohol, tobacco products, electronic**
273 **cigarette products, nicotine products, and cannabinoid products to underage individuals.**

274 (1) As used in this section:

- 275 (a) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.
276 (b) "Electronic cigarette product" means the same as that term is defined in Section
277 76-9-1101.
278 (c) "Nicotine product" means the same as that term is defined in Section 76-9-1101.
279 (d) "Peace officer" means the same as the term is described in Section 53-13-109.
280 (e) "Tobacco product" means the same as that term is defined in Section 76-9-1101.

281 (2)(a) A peace officer may investigate the possible violation of:

- 282 (i) Section 32B-4-403 by requesting an individual under 21 years old to enter into
283 and attempt to purchase or make a purchase of alcohol from a retail establishment;
284 (ii) Section 76-9-1103, 76-9-1104, 76-9-1105, or 76-9-1116 by requesting an
285 individual under 21 years old to enter into and attempt to purchase or make a
286 purchase from a retail establishment of:
287 (A) a tobacco product;
288 (B) an electronic cigarette product; or
289 (C) a nicotine product; or
290 (iii) Subsection 4-41-105(2)(a)(iv) by requesting an individual under 21 years old to
291 enter into and attempt to purchase or make a purchase of a cannabinoid product
292 that contains THC or a THC analog from a retail establishment.
293 (b) A peace officer who is present at the site of a proposed purchase shall direct,
294 supervise, and monitor the individual requested to make the purchase.
295 (c) Immediately following a purchase or attempted purchase or as soon as practical the
296 supervising peace officer shall inform the cashier and the proprietor or manager of
297 the retail establishment that the attempted purchaser was under the legal age to
298 purchase:
299 (i) alcohol;

- 300 (ii)(A) a tobacco product;
- 301 (B) an electronic cigarette product; or
- 302 (C) a nicotine product; or
- 303 (iii) a cannabinoid product that contains THC or a THC analog.
- 304 (d) If a citation or information is issued, the citation or information shall be issued
- 305 within seven days after the day on which the purchase occurs.
- 306 (3)(a) If an individual under 18 years old is requested to attempt a purchase, a written
- 307 consent of that individual's parent or guardian shall be obtained before the individual
- 308 participates in any attempted purchase.
- 309 (b) An individual requested by the peace officer to attempt a purchase may:
- 310 (i) be a trained volunteer; or
- 311 (ii) receive payment, but may not be paid based on the number of successful
- 312 purchases of alcohol, tobacco products, electronic cigarette products, nicotine
- 313 products, or cannabinoid products that contain THC or a THC analog.
- 314 (4) The individual requested by the peace officer to attempt a purchase and anyone
- 315 accompanying the individual attempting a purchase may use false identification in
- 316 attempting the purchase if:
- 317 (a) the Department of Public Safety created in Section 53-1-103 provides the false
- 318 identification;
- 319 (b) the false identification:
- 320 (i) accurately represents the individual's age; and
- 321 (ii) displays a current photo of the individual; and
- 322 (c) the peace officer maintains possession of the false identification at all times outside
- 323 the attempt to purchase.
- 324 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
- 325 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
- 326 purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product,[-]
- 327 a nicotine product, or a cannabinoid product that contains THC or a THC analog if a
- 328 peace officer directs, supervises, and monitors the individual.
- 329 (6)(a) Except as provided in Subsection (6)(b), a purchase attempted under this section
- 330 shall be conducted within a 12-month period:
- 331 (i) on a random basis at any one retail establishment location, not more often than
- 332 four times for the attempted purchase of alcohol;
- 333 (ii) a minimum of two times at a retail establishment that sells tobacco products,

- 334 electronic cigarette products, or nicotine products for the attempted purchase of a
335 tobacco product, an electronic cigarette product, or a nicotine product; and
336 (iii) a minimum of one time at a retail establishment that sells a cannabinoid product
337 that contains THC or a THC analog.
- 338 (b) This section does not prohibit an investigation or an attempt to purchase alcohol, a
339 tobacco product, an electronic cigarette product, or a nicotine product under this
340 section if:
- 341 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
342 tobacco product, an electronic cigarette product,[-] a nicotine product, or a
343 cannabinoid product that contains THC or a THC analog to an individual under
344 the age established by Section 32B-4-403, Section 76-9-1116, or Subsection
345 4-41-105(2)(d); and
- 346 (ii) the supervising peace officer makes a written record of the grounds for the
347 reasonable suspicion.
- 348 (7)(a) The peace officer exercising direction, supervision, and monitoring of the
349 attempted purchase shall make a report of the attempted purchase, whether or not a
350 purchase was made.
- 351 (b) The report required by this Subsection (7) shall include:
- 352 (i) the name of the supervising peace officer;
- 353 (ii) the name of the individual attempting the purchase;
- 354 (iii) a photograph of the individual attempting the purchase showing how that
355 individual appeared at the time of the attempted purchase;
- 356 (iv) the name and description of the cashier or proprietor from whom the individual
357 attempted the purchase;
- 358 (v) the name and address of the retail establishment; and
- 359 (vi) the date and time of the attempted purchase.

360 Section 11. **Effective Date.**

361 This bill takes effect on May 6, 2026.