

# SB0210S01 compared with SB0210

{Omitted text} shows text that was in SB0210 but was omitted in SB0210S01

inserted text shows text that was not in SB0210 but was inserted into SB0210S01

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## Nicotine Amendments

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jen Plumb**

House Sponsor:

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### LONG TITLE

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#### General Description:

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This bill amends provisions related to products that contain nicotine.

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#### Highlighted Provisions:

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This bill:

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▶ repeals provisions related to local health department inspections of electronic cigarette retailers;

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▶ amends provisions related to fees to be collected by the State Tax Commission for the sale of tobacco products, nicotine products, and electronic cigarette products;

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▶ directs that certain fee money be used to dispose of confiscated electronic cigarette products and additional enforcement;

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▶ amends provisions related to fines and license suspensions for selling products not listed on the electronic cigarette product registry; and

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▶ amends criminal penalties for crimes related to products that contain nicotine.

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#### Money Appropriated in this Bill:

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None

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#### Other Special Clauses:

SB0210

## SB0210 compared with SB0210S01

20 This bill provides a special effective date.

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **26A-1-131 (Effective 05/06/26)**, as enacted by Laws of Utah 2024, Chapter 470

24 **59-14-201 (Effective 01/01/27)**, as last amended by Laws of Utah 2018, Chapter 231

25 **59-14-202 ~~(Effective 05/06/26)~~(Effective 01/01/27)**, as last amended by Laws of Utah 2004, Chapter 217

26 **59-14-203 ~~(Effective 05/06/26)~~(Effective 01/01/27)**, as last amended by Laws of Utah 2004, Chapter 217

27 **59-14-301 (Effective 01/01/27)**, as last amended by Laws of Utah 2011, Chapter 96

28 **59-14-803 (Effective 01/01/27)**, as last amended by Laws of Utah 2020, Chapter 347

29 **~~59-14-807 (Effective 01/01/27) (Partially Repealed 07/01/30), as last amended by Laws of Utah 2025, Chapters 173, 366~~**

29 **59-14-810 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 173

30 **76-9-1103 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173

32 **76-9-1104 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173

34 **76-9-1105 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173

36 **76-9-1107 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173

38 **76-9-1112 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173

40 **76-9-1113 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173

42 **76-9-1114 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173

44 **76-9-1115 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, Chapter 173

45 **76-9-1116 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173

47 **ENACTS:**

48 **53-1-123 (Effective 01/01/27), Utah Code Annotated 1953**

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

51 Section 1. Section **26A-1-131** is amended to read:

52 **26A-1-131. (Effective 05/06/26) Electronic cigarette registry enforcement.**

53 **[41]**

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(a) A local health department may examine the books, papers, and records of a retailer in this state, for the purpose of determining compliance with Section 59-14-810.]

56 [ (b) A local health department may make the inspections and examinations at any time during ordinary business hours, and may inspect the premises and all desks, safes, vaults, and other fixtures and furniture contained in or upon the premises for the purpose of ascertaining whether an electronic cigarette product is held or possessed in violation of Section 59-14-810.]

61 [ (e) Unannounced follow-up examinations of all retailers are required within 30 days after any violation of Section 59-14-810.]

63 [(d)] (1)

(a) A local health department may conduct regular inspections of a business that sells an electronic cigarette product as that term is defined in Section 76-10-101, in accordance with the provisions of Section 26B-7-516.

66 (b) A local health department shall publish the results of all [examinations] inspections at least annually and shall make the results available to the public on request.

68 [(e)] (c) Any electronic cigarette product offered for sale in violation of Section 59-14-810 is declared to be a contraband good and shall be immediately embargoed by a local health department.

71 [(f)] (d) An electronic cigarette product described in Subsection [(f)(e)] (1)(c) may be embargoed [without a warrant] by:

73 (i) a local health department; or

74 (ii) a law enforcement agency of this state if directed by a local health department with jurisdiction over where the product is found.

76 [(g)] (e) The cost of embagoing shall be borne by the retailer.

77 [(h)] (f) In an action brought under this section, a local health department may recover reasonable expenses incurred in investigating and preparing the case and attorney fees.

80 [(i)] (g) A retailer shall remove any embargoed electronic cigarette product from the retailer's active inventory and work with the wholesaler or distributor to return or dispose the electronic cigarette product.

83 (2)

(a) A local health department shall disclose to the attorney general any information received under this section which is requested by the attorney general for purposes of determining compliance with and enforcing the provisions of this section or Section 59-14-810.

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87 (b) A local health department and the attorney general shall share with each other information received  
under this section and Section 59-14-810 or corresponding laws of other states.

90 (c) A local health department shall provide any necessary information to the State Tax Commission  
regarding violations of Section 59-14-810.

92 [~~(3) A monetary penalty assessed to a retailer by a local health department under this section shall be doubled if the retailer fails to provide documentation establishing a clear chain of custody back to the manufacturer.~~]

95 Section 2. Section 2 is enacted to read:

### **53-1-123. Nicotine Disposal and Enforcement Restricted Account.**

98 (1) There is created within the General Fund a restricted account known as the "Nicotine Disposal and Enforcement Restricted Account."

100 (2) The Nicotine Disposal and Enforcement Restricted Account consists of:  
101 (a) revenue allocated and collected from a license fee imposed under Sections 59-14-201, 59-14-301, and 59-14-803; and  
103 (b) appropriations from the Legislature.  
104 (3) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the funds deposited under Subsection (2)(a) into the Nicotine Disposal and Enforcement Restricted Account to the department for:  
107 (a) the disposal of confiscated electronic cigarette products; and  
108 (b) additional law enforcement officers to disrupt organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors.  
111 (4) Subject to appropriation, the department may determine how the funds may be used if the funds are used for a purpose described in Subsection (3).

113 Section 3. Section **59-14-201** is amended to read:

### **59-14-201. License -- Application of part -- Fee -- Bond -- Exceptions.**

98 (1) It is unlawful for any person in this state to manufacture, import, distribute, barter, sell, exchange, or offer cigarettes for sale without first having obtained a license issued by the commission under Section 59-14-202.

101 (2) Except for the tax rates described in Subsection 59-14-204(2), this part does not apply to a cigarette produced from a cigarette rolling machine.

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103 (3)

(a) ~~A license may not be issued for the sale of cigarettes until the applicant has paid a license fee of \$30 or a license renewal fee of \$20, as appropriate~~ The commission shall charge \$250 for issuing or renewing a license under this section.

106 (b) The fee for reinstatement of a license that has been revoked, suspended, or allowed to expire is ~~[\$30]~~ \$250.

108 (c) ~~Notwithstanding Subseetions (3)(a) and (b), the commission may not charge a fee for a license under this section for a retailer, as defined in Section 59-14-102~~ The commission shall deposit 88% of any fee received under this section to the fund described in Section {59-14-807} 53-1-123.

112 (4)

(a) A license may not be issued until the applicant files a bond with the commission. The commission shall determine the form and the amount of the bond, the minimum amount of which shall be \$500. The bond shall be executed by the applicant as principal, with a corporate surety, payable to the state and conditioned upon the faithful performance of all the requirements of this chapter, including the payment of all taxes, penalties, and other obligations.

118 (b) An applicant is not required to post a bond if the applicant:

119 (i) purchases during the license year only products that have the proper state stamp affixed as required by this chapter; and

121 (ii) files an affidavit with the applicant's application attesting to this fact.

122 (5) A person licensed under this section shall disclose on the application for a license each category of product the person will sell under the license from the following categories:

124 (a) tobacco products;

125 (b) nicotine products; or

126 (c) electronic cigarette products.

145 Section 4. Section **59-14-202** is amended to read:

146 **59-14-202. {Effective 05/06/26}(Effective 01/01/27)Issuance of licenses -- Common carrier licenses -- Contents -- Valid for one year -- Revocation -- Distribution requirements.**

130 (1) Cigarette licenses may be issued only to a person owning or operating the place or cigarette vending machine from which the cigarette sales are made.

132 (2)

(a) A license is required for each separate place of business.

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133 (b) A licensee shall notify the commission within 30 days in the event that it changes the location of the business.

135 (3) Applications for a license under this chapter shall be submitted on a form authorized by the commission. Each application shall state:

137 (a) the name and address of the applicant;

138 (b) the address of each place of business where the applicant's business will be conducted within this state; and

140 (c) any other information the commission may require relevant to license qualification.

141 (4) A common carrier is not required to obtain more than one license for sales on conveyances operated by that carrier within the state. All conveyances owned by a common carrier are considered as one place of business for the purpose of this chapter.

144 (5) No license may be granted, maintained, or renewed:

145 (a) if any combination of people owning directly or indirectly, in the aggregate, more than 10% of the ownership interests in the applicant:

147 (i) has been convicted of knowingly:

148 (A) selling stolen or counterfeit cigarettes;

149 (B) receiving stolen or counterfeit cigarettes; or

150 (C) being involved in the smuggling or counterfeiting of cigarettes;

151 (ii) is a cigarette manufacturer or importer that is not a:

152 (A) participating manufacturer as defined in subsection II(jj) of the "Master Settlement Agreement"; or

154 (B) in full compliance with the provisions of this chapter dealing with nonparticipating manufacturers;

156 (iii) has imported, or caused to be imported, into the United States any cigarette in violation of 19 U.S.C. Sec. 1681a; or

158 (iv) has imported, or caused to be imported into the United States, or manufactured for sale or distribution in the United States any cigarette that does not fully comply with the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. Sec. 1331, et. seq.; and

162 (b) until the applicant:

163 (i) has paid any delinquent cigarette taxes; and

164 (ii) has served the period of suspension resulting from any prior revoked license.

165 (6) Each license shall be numbered, show the residence and place of business of the licensee, and is nontransferable.

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167 (7)

(a) Each license is in effect for [three years] one year from the date of issuance, unless the license is earlier revoked by the commission.

169 (b) The license expires on the expiration date shown on the license, unless the licensee renews it in accordance with commission rules.

171 (c) The commission shall by rule establish procedures for the renewal and reinstatement of licenses.

173 (d) For any license issued before January 1, 2027, during the 2027 calendar year, the commission shall re-issue the license as a one-year license in the same calendar month the license was originally set to expire and charge the associated license fee.

176 (8)

(a) In addition to any civil or criminal penalty provided by law, the commission shall, after providing notice and a hearing, revoke the license of any person:

178 (i) found to have violated this title; or

179 (ii) who no longer qualifies for licensure under Subsection (5).

180 (b) In the case of a revocation under Subsection (8)(a)(i), a license may not be issued to that person within a period of two years after the violation.

182 (9) A licensee may not barter, sell, exchange, or offer for sale:

183 (a) cigarettes in an individual package or container that contains less than 20 cigarettes; or

185 (b) roll-your-own cigarettes in an individual package or container that contains less than 0.6 ounces of tobacco.

187 (10)

(a) The commission shall maintain a list that includes the identity of all people licensed under this section.

189 (b) The list shall:

190 (i) include the type of license possessed; and

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

210 Section 5. Section **59-14-203** is amended to read:

211 **59-14-203. ~~{Effective 05/06/26}~~Effective 01/01/27Failure to obtain a license -- Penalty.**

194 (1) Any person engaging in the business of manufacturing, importing, distributing, or selling or offering to sell cigarettes without holding a valid license that is currently not suspended or revoked is guilty of a class B misdemeanor for each offense.

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197 (2) A person who violates Subsection (1) is subject to an administrative fine of \$1,000 to be collected by the commission.

217       Section 6. Section **59-14-301** is amended to read:

218       **59-14-301. Registration and licensing -- Fee -- Bond exceptions.**

202 (1) All manufacturers and distributors of all tobacco products, as defined in Section 59-14-102, who are responsible for the collection of tax on tobacco products under this chapter, and all retailers of all tobacco products:

205 (a) shall register with the commission;

206 (b) shall be licensed by the commission under Part 2, Cigarettes; and

207 (c) are subject to the requirements, procedures, and penalties described in Part 2, Cigarettes.

209 (2)

211 (a) Subject to Subsection (2)(b), the commission shall charge \$250 for issuing or renewing a license under this section.

214 (b) A fee may not be charged for registration and licensing of manufacturers, jobbers, distributors, or retailers of tobacco products in addition to the cigarette license if such a license is required.

216 (c) The commission shall deposit 88% of any fee received under this section to the fund described in Section {59-14-807} **53-1-123**.

217 (d) The term of a license issued under this section is one year.

220 (e) For any license issued before January 1, 2027, during the 2027 calendar year, the commission shall re-issue the license as a one-year license in the same calendar month the license was originally set to expire and charge the associated license fee.

223 (3)

224 (a) The commission shall require any manufacturer, wholesaler, retailer, or any other person subject to this section, and who is responsible for the collection of tax on tobacco products under this chapter, to post a bond as a prerequisite to registering.

225 (b) The bond shall be in a form and an amount determined by the commission.

226 (c) If the bond is required under Section 59-14-201, the bond may be a combination, the minimum amount of which shall be \$1,000.

229       Section 7. Section **59-14-803** is amended to read:

229       **59-14-803. License to sell electronic cigarette product or nicotine product.**

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(1) A person may not sell, offer to sell, or distribute an electronic cigarette product or a nicotine product in this state without first:

231 (a) except as provided in Subsection (2), obtaining a license from the commission under this section to  
sell an electronic cigarette product or a nicotine product; and

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

234 (2)

(a) A person that holds a valid license to sell cigarettes under Section 59-14-201 or a person that holds a valid license to sell tobacco products under Section 59-14-301 may, without obtaining a separate license in accordance with this section, sell, offer to sell, or distribute an electronic cigarette product or a nicotine product in this state.

238 (b) Subject to Subsection (2)(a), the commission shall charge \$250 for issuing or renewing a license under this section.

240 (c) The commission shall deposit 88% of any fee received under this section to the fund described in Section {59-14-807} 53-1-123.

242 (3) The commission shall issue a license to sell an electronic cigarette product or a nicotine product to a person that submits an application, on a form created by the commission, that includes:

245 (a) the person's name;

246 (b) the address of the facility where the person will sell an electronic cigarette product or a nicotine product; and

248 (c) any other information the commission requires to implement this chapter.

249 (4)

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

250 [(a)] (i) valid only at one fixed business address;

251 [(b)] (ii) valid for [three years] one year;

252 [(c)] (iii) valid only for a physical location; and

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

255 (b) For any license issued before January 1, 2027, during the 2027 calendar year, the commission shall re-issue the license as a one-year license in the same calendar month the license was originally set to expire and charge the associated license fee.

258 (5)

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- (a) The commission shall require a manufacturer, jobber, distributor, wholesaler, or retailer that is responsible under this part for the collection of tax on an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to post a bond.
- 263 (b) The manufacturer, jobber, distributor, wholesaler, or retailer may post the bond required by Subsection (5)(a) in combination with any bond required by Section 59-14-201 or 59-14-301.
- 266 (c) Subject to Subsection (5)(d), the commission shall determine the form and amount of the bond.
- 268 (d) The minimum amount of the bond shall be:
  - 269 (i) except as provided in Subsection (5)(d)(ii) or (iii), \$500;
  - 270 (ii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond required by Subsection (5)(a) in combination with a bond required by either Section 59-14-201 or 59-14-301, \$1,000; or
  - 273 (iii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond required by Subsection (5)(a) in combination with a bond required by both Sections 59-14-201 and 59-14-301, \$1,500.
- 276 (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).
- 280 (7) It is a class B misdemeanor for a person to violate Subsection (1).
- 281 (8) A person who violates Subsection (1) is subject to an administrative fine of \$1,000 to be collected by the commission.
- 283 [~~(8) The commission may not charge a fee for a license under this section.~~]
- 284 ~~{Section 7. Section 59-14-807 is amended to read: }~~

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

- 287 (1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account."
- 289 (2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account consists of:
  - 291 (a) revenue allocated and collected from the license fee imposed under Sections 59-14-201, 59-14-301, and 59-14-803;
  - 293 (b) revenue collected from the tax imposed by Section 59-14-804;
  - 294 [(b)] (c) fees and penalties collected under Section 59-14-810;

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295 [({e})] (d) all money received by the attorney general or the Department of Commerce as a result of any  
judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the  
manufacture, marketing, distribution, or sale of electronic cigarette products, as defined in Section  
76-9-1101:

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

301 (ii) after reimbursement to the attorney general and the Department of Commerce for expenses related  
to the matters described in this Subsection [({2})({e})] (2)(d); and

303 [({d})] (e) amounts appropriated by the Legislature.

304 (3)

308 (a) [Subject to Subsections (3)(b) and (e), for] For each fiscal year and subject to appropriation by the  
Legislature, the Division of Finance shall distribute from the [Electronic Cigarette Substance and  
Nicotine Product Proceeds Restricted Account] revenue deposited under Subsections (2)(b) and (2)  
(d):

314 (i) \$2,000,000 to the Department of Health and Human Services for enforcement services aimed  
at disrupting organizations and networks that provide tobacco products, electronic cigarette  
products, nicotine products, or other illegal controlled substances to minors, which the  
Department of Health and Human Services shall allocate to the local health departments using  
the formula created in accordance with Section 26A-1-116;

318 (ii) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting  
organizations and networks that provide tobacco products, electronic cigarette products, nicotine  
products, and other illegal controlled substances to minors;

322 (iii) \$1,000,000 to the Department of Health and Human Services for enforcement services aimed  
at disrupting organizations and networks that provide tobacco products, electronic cigarette  
products, nicotine products, and other illegal controlled substances to minors;

326 (iv) \$3,000,000 to the Department of Health and Human Services for community partner prevention  
programs, which the Department of Health and Human Services shall allocate to the local health  
departments using the formula created in accordance with Section 26A-1-116;

328 (v) \$1,000,000 to the Department of Health and Human Services for statewide cessation programs  
and prevention education;

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(vi) \$2,000,000 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television; and

(vii) \$5,084,200 to the State Board of Education for school-based prevention programs.

(b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the Division of Finance shall make the distributions under Subsection (3)(a):

(i) sequentially in the order of priority the distributions are listed under Subsection (3)(a);

(ii) in full or, if insufficient funds are available to satisfy the next distribution in the sequence, in part; and

(iii) until the available funds in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account are exhausted.

(c) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the funds deposited under [Section 59-14-810] Subsection (2)(c) into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

(i) to the commission, in an amount equal to the amount necessary to create and maintain the registry described in Section 59-14-810;

(ii) to the Department of Health and Human Services, in an amount necessary for completing duties described in Section 59-14-810; and

(iii) to the Department of Health and Human Services, the remainder to be divided among the local health departments for inspection and enforcement described in Sections 26A-1-131 and 59-14-810.

(d) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the funds deposited under Subsection (2)(a) into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account to the Department of Public Safety for:

(i) the disposal of confiscated electronic cigarette products; and

(ii) additional law enforcement officers to disrupt organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors.

(4)

(a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

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364 (i) the regulation provisions described in Section 26B-7-505;  
365 (ii) the labeling requirement described in Section 26B-7-505; and  
366 (iii) the penalty provisions described in Section 26B-7-518.

367 (b) The Department of Health and Human Services shall use the money received in accordance with  
Subsection (3)(a)(v) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention  
Program created in Section 26B-1-428.

370 (c) The local health departments shall use the money received in accordance with Subsection (3)(a)(iv)  
to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program  
created in Section 26A-1-129.

373 (d) The State Board of Education shall use the money received in accordance with Subsection (3)(a)  
(vii) to distribute to local education agencies to pay for:

375 (i) (A) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);  
377 (B) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)  
(ii); and  
379 (C) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade  
4 or 5, as described in Subsection 53G-10-406(3)(b); or  
382 (ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.

383 (5) (a) The fund shall earn interest.  
384 (b) All interest earned on fund money shall be deposited into the fund.  
385 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and  
Nicotine Product Proceeds Restricted Account after the distribution described in Subsection (3) may  
only be used for:  
388 (a) funding commission personnel to enforce compliance with the tax collection requirements of this  
part; and  
390 (b) programs and activities related to the prevention and cessation of electronic cigarette, nicotine  
products, marijuana, and other drug use.

302 Section 8. Section **59-14-810** is amended to read:

303 **59-14-810. Electronic cigarette product registry.**

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(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:

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

399 (b) the electronic cigarette product is a premarket authorized or pending electronic cigarette product as defined in Section 76-9-1101 and will not be illegal to be sold in the state as of January 1, 2025.

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

404 (3)

405 (a) Each certification form shall include:

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

410 (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

414 (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;

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

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

419 (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.

423 (c) A manufacturer required to submit a certification form under this section shall notify the commission and the Department of Health and Human Services in a manner prescribed by the commission within 30 days of any material change making the certification form no longer accurate, including:

(i) the issuance or denial of a marketing authorization or other order by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j; or

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425 (ii) any other order or action by the United States Food and Drug Administration or any court that  
affects the ability of the electronic cigarette product to be introduced or delivered into interstate  
commerce for commercial distribution in the United States.

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

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

432 (ii) correct or amend information if necessary; and

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

435 (e) A manufacturer may amend a certification, including to add additional electronic cigarette products  
to the registry, if all requirements of this section are met.

437 (f) The commission shall:

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

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

442 (4)

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

445 (b) On or before October 1, 2024, the commission shall make publicly available on the commission's  
website a registry that lists each electronic cigarette product manufacturer and each electronic  
cigarette product for which certification forms have been approved by the Department of Health and  
Human Services.

449 (c) An electronic cigarette product may not be listed on the registry unless the Department of Health  
and Human Services determines the requirements of Subsection (3)(a) are met.

452 (5)

454 (a) If the Department of Health and Human Services obtains information that an electronic cigarette  
product should not be listed in the registry, the Department of Health and Human Services shall  
provide the manufacturer notice and an opportunity to cure deficiencies before notifying the  
commission to remove the manufacturer or products from the registry.

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457 (b) Except as provided in Subsection (5)(c), the Department of Health and Human Services shall  
458 comply with Title 63G, Chapter 4, Administrative Procedures Act, before notifying the commission  
459 to remove an electronic cigarette product or manufacturer from the registry.

461 (c) Subsection (5)(b) does not apply to a manufacturer failing:  
462 (i) to decertify an electronic cigarette product;  
463 (ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or  
464 (iii) to comply with Subsection (10).

465 (6)  
466 (a) If a product is removed from the registry, each retailer, distributor, and wholesaler shall have 30  
467 days from the day on which the product is removed from the registry to remove the product from  
468 any inventory and return the product to the manufacturer for disposal.

469 (b) After the period described in Subsection (6)(a), any electronic cigarette product of a manufacturer  
470 identified in the notice of removal are contraband and are subject to penalties under Subsection (8)[  
471 ~~and seizure, forfeiture, and destruction under Section 26A-1-131~~].

473 (7)  
474 (a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an electronic cigarette  
475 product in this state that is not included in the registry.

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

479 (8)  
480 (a) A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic cigarette product  
481 in this state that is not included in the registry shall be subject to a civil penalty assessed by the tax  
482 commission of:  
483 (i) \$1,000 for each unit of product offered for sale in violation of this section; and  
484 (ii) \$100 per day until the offending product is removed from the market or until the offending  
485 product is properly listed on the registry.

486 (b) The commission shall suspend the person's license issued under [Seetion] Sections 59-14-201,  
487 59-14-301, and 59-14-803 for a violation of Subsection (8)(a) as follows:  
488 (i) for a second violation within a 12-month period, at least 14 days;  
489 (ii) for a third violation within a 12-month period, at least 60 days; or

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

489 (c) A manufacturer whose electronic cigarette products are not listed in the registry and are sold in  
this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or  
intermediaries, is subject to a civil penalty assessed by the tax commission of:

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

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

497 (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.

500 (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.

503 (9)

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

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

508 (ii) a local health department; or

509 (iii) the attorney general.

511 (10)

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

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

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

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

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520 (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.

524 (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.

528 (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:

531 (a) the status of the registry;

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

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

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

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

537 (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.

450       Section 9. Section **76-9-1103** is amended to read:

451       **76-9-1103. Permitting a minor to use a tobacco product, electronic cigarette product, or nicotine product in a place of business.**

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

544 (2) An actor commits permitting a minor to use a tobacco product, electronic cigarette product, or nicotine product in a place of business if the actor:

546 (a) is a proprietor of a place of business; and

547 (b) knowingly permits an individual under 21 years old to frequent the actor's place of business while the individual is using a tobacco product, an electronic cigarette product, or a nicotine product.

550 (3) A violation of Subsection (2) is a class [C] B misdemeanor.

461       Section 10. Section **76-9-1104** is amended to read:

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462        **76-9-1104. Providing a cigar, a cigarette, an electronic cigarette product, a nicotine product, or tobacco to a minor.**

554        (1)

555        (a) As used in this section, "provides":

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

557        (ii) does not include the acts:

559        (A) of the United States Postal Service or other common carrier when engaged in the business of  
560                transporting and delivering packages for others; or

561        (B) of a person, whether compensated or not, who transports or delivers a package for another person  
562                without any reason to know of the package's content.

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

564        (2) Except as provided in Subsection (4), an actor commits providing a cigar, cigarette, electronic  
565                cigarette product, nicotine product, or tobacco to a minor if the actor knowingly, intentionally,  
566                recklessly, or with criminal negligence provides a tobacco product, an electronic cigarette product,  
567                or a nicotine product to an individual who is under 21 years old.

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

569        (a) a class [C] B misdemeanor on the first offense; or

570        (b) a class [B] A misdemeanor on [the second offense; or] a subsequent offense.

571        [e) a class A misdemeanor on the third or subsequent offense.]

572        (4) This section does not apply to conduct of an employee of a tobacco retailer that is a violation of  
573                Section 76-9-1116.

483                Section 11. Section **76-9-1105** is amended to read:

484        **76-9-1105. Providing tobacco paraphernalia to a minor.**

575        (1)

576        (a) As used in this section, "provides" means the same as that term is defined in Section 76-9-1104.

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

578        (2) An actor commits providing tobacco paraphernalia to a minor if the actor knowingly, intentionally,  
579                recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under 21  
580                years old.

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

582        (a) a class [C] B misdemeanor on the first offense; or

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583 (b) a class [B] A misdemeanor on a subsequent offense.

494 Section 12. Section **76-9-1107** is amended to read:

495 **76-9-1107. Illegal indirect sale of a tobacco product, an electronic cigarette product, or a nicotine product.**

587 (1)

588 (a) As used in this section:

(i)

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

592 (B) "Face-to-face exchange" does not include a sale through a vending machine or a self-service  
593 display.

594 (ii) "Retailer" means a person who:

595 (A) sells a tobacco product, an electronic cigarette product, or a nicotine product to an individual for  
596 personal consumption; or

597 (B) operates a facility with a vending machine that sells a tobacco product, an electronic cigarette  
598 product, or a nicotine product.

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

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

603 (2) Except as provided in Subsection (4), an actor commits illegal indirect sale of a tobacco product, an  
604 electronic cigarette product, or a nicotine product if the actor:

605 (a) is a retailer; and

606 (b) sells a tobacco product, an electronic cigarette product, or a nicotine product in a manner that does  
607 not include a face-to-face exchange.

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

609 (a) a class [C] B misdemeanor on the first offense; or

610 (b) a class [B] A misdemeanor on [the second offense; or] a subsequent offense.

611 [e] a class A misdemeanor on the third or subsequent offense.]

612 (4) The face-to-face sale requirement in Subsection (2) does not apply to:

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

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613 (b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:  
615 (i) that is distinct and separate from the rest of the facility; and  
616 (ii) where the retailer only allows an individual who is under 21 years old to be present if the individual:  
618 (A) is accompanied by the actor's parent or legal guardian; or  
619 (B)  
620 (I) is present solely for the purpose of providing a service to the business, including making a delivery;  
621 (II) is monitored by the proprietor business or an employee of the business; and  
622 (III) is not permitted to make any purchase or conduct any commercial transaction other than the  
623 service described in Subsection ~~(4)(b)(ii)(B)(H)~~ (4)(b)(ii)(B)(I); or  
624 (c) a sale at a retail tobacco specialty business.  
625 (5)  
626 (a) An individual's parent or legal guardian who accompanies an individual into an area described in  
627 Subsection (4)(b)(ii)(A) may not allow the individual to purchase a tobacco product, an electronic  
628 cigarette product, or a nicotine product.  
629 (b) A violation of Subsection (5)(a) is an offense under Section 76-9-1104.

540 Section 13. Section **76-9-1112** is amended to read:

**76-9-1112. Illegal provision of smokeless tobacco or electronic cigarette product --**

**Exceptions.**

633 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.  
634 (2) Except as provided in Subsection (4), an actor commits illegal provision of smokeless tobacco or  
635 electronic cigarette product if the actor:  
636 (a) is a manufacturer, wholesaler, and retailer[-]; and  
637 (b)  
638 (i) gives or distributes without charge smokeless tobacco, chewing tobacco, or an electronic cigarette  
639 product in this state;  
640 (ii) sells, offers for sale, or furnishes an electronic cigarette product at less than the cost, including the  
641 amount of any applicable tax, of the product to the manufacturer, wholesaler, or retailer; or  
642 (iii) gives, distributes, sells, offers for sale, or furnishes an electronic cigarette product for free or at a  
643 lower price because the recipient of the electronic cigarette product makes another purchase.  
644 (3) A violation of Subsection (2) is:  
645 (a) a class ~~C~~ B misdemeanor on the first offense; or

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647 (b) a class [B] A misdemeanor on a subsequent offense.

648 (4)

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

650 (i) a physical manufacturer coupon:

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

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

653 (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

654 (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.

655 (b) 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.

656 (5) The Legislature finds that:

657 (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who use those products because research indicates that they may cause mouth or oral cancers;

658 (b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

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

660 (d) it is necessary to restrict the gift of the products described in this section in the interest of the health of the citizens of this state.

661 Section 14. Section **76-9-1113** is amended to read:

662 **76-9-1113. Illegal distribution of a tobacco product -- Exceptions.**

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

664 (2) Except as provided in Subsection (4), an actor commits illegal distribution of a tobacco product if the actor:

665 (a) is a manufacturer, wholesaler, or retailer; and

666 (b) [-]gives or distributes a tobacco product in this state without charge.

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

668 (a) a class [C] B misdemeanor on the first offense; or

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681 (b) a class [B] A misdemeanor on a subsequent offense.

682 (4)

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

684 (b) The prohibition described in Subsection (2) 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.

597 Section 15. Section **76-9-1114** is amended to read:

**76-9-1114. Illegal distribution of a flavored electronic cigarette product.**

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

691 (2) An actor commits illegal distribution of a flavored electronic cigarette product if the actor gives,  
distributes, sells, offers for sale, or furnishes to any person a flavored electronic cigarette product.

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

695 (a) a class [C] B misdemeanor on the first offense; or

696 (b) a class [B] A misdemeanor on a subsequent offense.

607 Section 16. Section **76-9-1115** is amended to read:

**76-9-1115. Illegal distribution of an electronic cigarette product without federal  
authorization.**

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

701 (2) An actor commits illegal distribution of an electronic cigarette product without federal authorization  
if 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.

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

706 (a) a class [C] B misdemeanor on the first offense; or

707 (b) a class [B] A misdemeanor on a subsequent offense.

618 Section 17. Section **76-9-1116** is amended to read:

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

711 (1)

712 (a) As used in this section:

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

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

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

716 (2) An actor commits unlawful sale of a tobacco product, electronic cigarette product, or nicotine product if the actor:

718 (a) is an employee; and

719 (b) intentionally or knowingly sells or gives a tobacco product, an electronic cigarette product, or a nicotine product in the course of business to an individual younger than 21 years old.

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

723 [(a) on a first violation:]

724 [(i) an infraction; and]

725 [(ii) subject to:]

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

727 [(B) compensatory service; or]

728 [(b) on a subsequent violation:]

729 [(i)] (a) a class [C] A misdemeanor; and

730 [(ii)] (b) subject to[:]

731 [(A)] a fine not exceeding [\$2,000; or] \$4,000.

732 [(B) compensatory service.]

### 643 Section 18. **Effective date.**

#### Effective Date.

734 (1) Except as provided in Subsection (2), this bill takes effect May 6, 2026.

735 (2) The actions affecting the following sections take effect on January 1, 2027:

646 (a) Section 53-1-123 (Effective 01/01/27);

736 (a){(b)} Section 59-14-201 (Effective 01/01/27);

648 (c) Section 59-14-202 (Effective 01/01/27);

649 (d) Section 59-14-203 (Effective 01/01/27);

737 (b){(e)} Section 59-14-301 (Effective 01/01/27); and

738 (c){(f)} Section 59-14-803 (Effective 01/01/27){; and} ;

739 {(d) {Section 59-14-807 (Effective 01/01/27) (Partially Repealed 07/01/30).} }

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