

SB0210S03 compared with SB0210

~~{Omitted text}~~ shows text that was in SB0210 but was omitted in SB0210S03

inserted text shows text that was not in SB0210 but was inserted into SB0210S03

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1

Nicotine Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jen Plumb

House Sponsor:

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3

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}~~ the sale of a product containing nicotine.

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Money Appropriated in this Bill:

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None

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19 **Other Special Clauses:**

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

32 ~~**{76-9-1103 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025,
Chapter 173}**~~

34 ~~**{76-9-1104 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025,
Chapter 173}**~~

36 ~~**{76-9-1105 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025,
Chapter 173}**~~

38 ~~**{76-9-1107 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025,
Chapter 173}**~~

40 ~~**{76-9-1112 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025,
Chapter 173}**~~

42 ~~**{76-9-1113 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025,
Chapter 173}**~~

44 ~~**{76-9-1114 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025,
Chapter 173}**~~

46 ~~**{76-9-1115 (Effective 05/06/26), as enacted by Laws of Utah 2025, Chapter 173}**~~

30 **76-9-1116 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173

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32 ENACTS:

33 **53-1-123 (Effective 01/01/27), Utah Code Annotated 1953**

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

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

37 **26A-1-131. Electronic cigarette registry enforcement.**

53 [~~(1)~~]

(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 [~~(c) 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 [~~(1)(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 embargoing 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.

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- 80 [(†)] (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.
- 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.~~]

80 Section 2. Section 2 is enacted to read:

81 **53-1-123. Nicotine Disposal and Enforcement Restricted Account.**

- 83 (1) There is created within the General Fund a restricted account known as the "Nicotine Disposal and
Enforcement Restricted Account."
- 85 (2) The Nicotine Disposal and Enforcement Restricted Account consists of:
- 86 (a) revenue allocated and collected from a license fee imposed under Sections 59-14-201, 59-14-301,
and 59-14-803; and
- 88 (b) appropriations from the Legislature.
- 89 (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:
- 92 (a) the disposal of confiscated electronic cigarette products; and
- 93 (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.
- 96 (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).

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98 (5) The department may award grants to other state and local law enforcement agencies and local
education agencies for the disposal of confiscated electronic cigarette products.

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

101 **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.

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 Subsections (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;

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125 (b) nicotine products; or

126 (c) electronic cigarette products.

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

133 **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.

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;

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- (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.
- 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)

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(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.

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

198 **59-14-203. ~~{(Effective 05/06/26)}~~{(Effective 01/01/27)} Failure 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.

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

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

205 **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)

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

211 (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.

214 (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.

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

217 (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.

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- 220 (3)
- (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.
- 223 (b) The bond shall be in a form and an amount determined by the commission.
- 224 (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.
- 231 Section 7. Section **59-14-803** is amended to read:
- 232 **59-14-803. License to sell electronic cigarette product or nicotine product.**
- 229 (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:

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- 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).
- 254 (b) For any license issued before January 1, 2027, during the 2027 calendar year, the commission shall
- 255 re-issue the license as a one-year license in the same calendar month the license was originally set to
- 256 expire and charge the associated license fee.
- 257 (5)
- 258 (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.
- 259 (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.
- 260 (c) Subject to Subsection (5)(d), the commission shall determine the form and amount of the bond.
- 261 (d) The minimum amount of the bond shall be:
- 262 (i) except as provided in Subsection (5)(d)(ii) or (iii), \$500;
- 263 (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
- 264 (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.
- 265 (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).
- 266 (7) It is a class B misdemeanor for a person to violate Subsection (1).
- 267 (8) A person who violates Subsection (1) is subject to an administrative fine of \$1,000 to be collected by the commission.
- 268 ~~[(8) The commission may not charge a fee for a license under this section.]~~
- 269 ~~{Section 7. Section 59-14-807 is amended to read: }~~
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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;
- 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)
- (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):
- 308 (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;
- 314 (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;

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- 318 (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;
- 322 (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;
- 326 (v) \$1,000,000 to the Department of Health and Human Services for statewide cessation programs
and prevention education;
- 328 (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
- 332 (vii) \$5,084,200 to the State Board of Education for school-based prevention programs.
- 334 (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):
- 337 (i) sequentially in the order of priority the distributions are listed under Subsection (3)(a);
- 339 (ii) in full or, if insufficient funds are available to satisfy the next distribution in the sequence, in part;
and
- 341 (iii) until the available funds in the Electronic Cigarette Substance and Nicotine Product Proceeds
Restricted Account are exhausted.
- 343 (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:
- 347 (i) to the commission, in an amount equal to the amount necessary to create and maintain the registry
described in Section 59-14-810;
- 349 (ii) to the Department of Health and Human Services, in an amount necessary for completing duties
described in Section 59-14-810; and
- 351 (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.
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- (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:
- 358 (i) the disposal of confiscated electronic cigarette products; and
- 359 (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.
- 362 (4)
- (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:
- 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.

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- 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.

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

290 **59-14-810. Electronic cigarette product registry.**

- 394 (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)
- (a) Each certification form shall include:
- 405 (i) the name of the electronic cigarette product, nicotine content level by percentage, and any
flavors contained in the product;
- 407 (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
- 410 (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;
- 414 (iii) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added to the registry
in the first instance; and

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- 416 (iv) information described in Subsection (10) if applicable.
- 417 (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.
- 419 (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:
- 423 (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
- 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)
- (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

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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)
- (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.
- 457 (b) Except as provided in Subsection (5)(c), the Department of Health and Human Services shall
comply with Title 63G, Chapter 4, Administrative Procedures Act, before notifying the commission
to remove an electronic cigarette product or manufacturer from the registry.
- 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)
- (a) If a product is removed from the registry, each retailer, distributor, and wholesaler shall have 30
days from the day on which the product is removed from the registry to remove the product from
any inventory and return the product to the manufacturer for disposal.
- 469 (b) After the period described in Subsection (6)(a), any electronic cigarette product of a manufacturer
identified in the notice of removal are contraband and are subject to penalties under Subsection (8)[
~~and seizure, forfeiture, and destruction under Section 26A-1-131].~~
- 473 (7)
- (a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an electronic cigarette
product in this state that is not included in the registry.
- 475 (b) A manufacturer may not sell, either directly or through a distributor, wholesaler, retailer, or similar
intermediary or intermediaries, an electronic cigarette product in this state that is not included in the
registry.
- 478 (8)

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- (a) A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic cigarette product in this state that is not included in the registry shall be subject to a civil penalty assessed by the tax commission of:
- 481 (i) \$1,000 for each unit of product offered for sale in violation of this section; and
482 (ii) \$100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.
- 484 (b) The commission shall suspend the person's license issued under [~~Section~~] Sections 59-14-201, 59-14-301, and 59-14-803 for a violation of Subsection (8)(a) as follows:
- 486 (i) for a second violation within a 12-month period, at least 14 days;
487 (ii) for a third violation within a 12-month period, at least 60 days; or
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)
- (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:
- 506 (i) the Department of Health and Human Services;
507 (ii) a local health department; or
508 (iii) the attorney general.
- 509 (b) The commission and attorney general shall share with each other information received under this section, or corresponding laws of other states.

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- 511 (10)
(a)
[~~(i)~~] The commission may not list a nonresident manufacturer of an electronic cigarette product in
the registry unless:
- 513 [~~(A)~~] (i) the nonresident manufacturer has registered to do business in the state as a foreign
corporation or business entity; or
- 515 [~~(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.
- 518 (b) The nonresident manufacturer shall provide the name, address, and telephone number of the agent to
the commission.
- 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.
- 540 {Section 9. ~~Section 76-9-1103 is amended to read: }~~

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541 **76-9-1103. Permitting a minor to use a tobacco product, electronic cigarette product, or**
542 **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
545 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
548 the individual is using a tobacco product, an electronic cigarette product, or a nicotine product.

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

550 ~~{Section 10. Section 76-9-1104 is amended to read: }~~

551 **76-9-1104. Providing a cigar, a cigarette, an electronic cigarette product, a nicotine product,**
552 **or tobacco to a minor.**

553 (1)

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

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

555 (ii) does not include the acts:

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

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

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

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

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

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

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

568 ~~[(c) a class A misdemeanor on the third or subsequent offense.]~~

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

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573 ~~{Section 11. Section 76-9-1105 is amended to read: }~~

574 **76-9-1105. Providing tobacco paraphernalia to a minor.**

575 (1)

(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, recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under 21 years old.

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

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

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

584 ~~{Section 12. Section 76-9-1107 is amended to read: }~~

585 **76-9-1107. Illegal indirect sale of a tobacco product, an electronic cigarette product, or a nicotine product.**

587 (1)

(a) As used in this section:

588 (i)

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

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

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

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

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

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

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

601

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

603

(a) is a retailer; and

604

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

606

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

607

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

608

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

609

~~[(c) a class A misdemeanor on the third or subsequent offense.]~~

610

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

611

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

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)

(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 service described in Subsection [~~(4)(b)(ii)(B)(H)] (4)(b)(ii)(B)(I); or~~

625

(c) a sale at a retail tobacco specialty business.

626

(5)

(a) An individual's parent or legal guardian who accompanies an individual into an area described in Subsection (4)(b)(ii)(A) may not allow the individual to purchase a tobacco product, an electronic cigarette product, or a nicotine product.

629

(b) A violation of Subsection (5)(a) is an offense under Section 76-9-1104.

630

~~{Section 13. Section 76-9-1112 is amended to read: }~~

631

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

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- (2) Except as provided in Subsection (4), an actor commits illegal provision of smokeless tobacco or electronic cigarette product if the actor:
- 636 (a) is a manufacturer, wholesaler, and retailer[-]; and
- 637 (b)
- (i) gives or distributes without charge smokeless tobacco, chewing tobacco, or an electronic cigarette product in this state;
- 639 (ii) sells, offers for sale, or furnishes an electronic cigarette product at less than the cost, including the amount of any applicable tax, of the product to the manufacturer, wholesaler, or retailer; or
- 642 (iii) gives, distributes, sells, offers for sale, or furnishes an electronic cigarette product for free or at a lower price because the recipient of the electronic cigarette product makes another purchase.
- 645 (3) A violation of Subsection (2) is:
- 646 (a) a class [C] B misdemeanor on the first offense; or
- 647 (b) a class [B] A misdemeanor on a subsequent offense.
- 648 (4)
- (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;
- 655 (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
- 657 (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.
- 659 (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.
- 662 (5) The Legislature finds that:
- 663 (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;
- 666 (b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;
- 667

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

669 (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.

671 ~~{Section 14. Section 76-9-1113 is amended to read: }~~

672 **76-9-1113. Illegal distribution of a tobacco product -- Exceptions.**

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

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

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

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

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

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

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

682 (4)

(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.

687 ~~{Section 15. Section 76-9-1114 is amended to read: }~~

688 **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.

697 ~~{Section 16. Section 76-9-1115 is amended to read: }~~

698 **76-9-1115. Illegal distribution of an electronic cigarette product without federal
authorization.**

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- 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.

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

438 **76-9-1116. Unlawful sale of a tobacco product, electronic cigarette product, or nicotine product.**

- 711 (1)
- (a) As used in this section:
- 712 (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 ~~is~~ a class A misdemeanor.

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 { } :~~]

460 (A) {

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731 ~~{(A)}~~ a fine not exceeding ~~{}~~ \$2,000; or]

461 ~~[(B)~~ { \$4,000.

732 ~~{(B)}~~ compensatory service.]

462 Section 10. **Effective date.**

Effective Date.

734 (1) Except as provided in Subsection (2), this bill takes effect ~~{May 6, 2026}~~ January 1, 2027.

735 (2) The actions affecting the following sections take effect on ~~{January 1, 2027}~~ May 6, 2026:

736 (a) Section ~~{59-14-201}~~ 26A-1-131 (Effective ~~{01/01/27}~~) 05/06/26;

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

738 (c){~~(b)~~} Section ~~{59-14-803}~~ 59-14-810 (Effective ~~{01/01/27}~~) 05/06/26; and

739 (d){~~(c)~~} Section ~~{59-14-807}~~ 76-9-1116 (Effective ~~{01/01/27}~~ (Partially Repealed 07/01/30)) 05/06/26.

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