

**Non-nicotine Inhalation Product Amendments**  
**2026 GENERAL SESSION**  
**STATE OF UTAH**  
**Chief Sponsor: Jason E. Thompson**

## LONG TITLE

### **General Description:**

This bill addresses non-nicotine inhalation products.

## **Highlighted Provisions:**

This bill:

- ▶ requires a non-nicotine inhalation product, non-nicotine inhalation substance, and a cannabinoid electronic cigarette to be registered;
- ▶ establishes civil penalties for selling an unregistered non-nicotine inhalation product, non-nicotine inhalation substance, or cannabinoid electronic cigarette;
- ▶ creates the criminal offense of illegal distribution of a non-nicotine inhalation product, non-nicotine inhalation substance, or cannabinoid electronic cigarette; and
- ▶ defines terms.

## **Money Appropriated in this Bill:**

None

## Other Special Clauses:

None

## Utah Code Sections Affected:

## AMENDS:

**26B-7-501**, as last amended by Laws of Utah 2025, Chapter 173

**26B-7-505**, as last amended by Laws of Utah 2025, Chapter 173

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

**59-14-810**, as last amended by Laws of Utah 2025, Chapter 173

**76-9-1101**, as renumbered and amended by Laws of Utah 2025, Chapter 173

**76-9-1115**, as enacted by Laws of Utah 2025, Chapter 173

## ENACTS:

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

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

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

32           **26B-7-501 . Definitions.**

33           As used in this part:

34           (1) "Cannabinoid electronic cigarette" means the same as that term is defined in Section  
35           76-9-1101.

36           (2) "Community location" means the same as that term is defined:

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

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

39           [(2)] (3) "Electronic cigarette" means the same as that term is defined in Section 76-9-1101.

40           [(3)] (4) "Electronic cigarette product" means the same as that term is defined in Section  
41           76-9-1101.

42           [(4)] (5) "Electronic cigarette substance" means the same as that term is defined in Section  
43           76-9-1101.

44           [(5)] (6) "Employee" means an employee of a tobacco retailer.

45           [(6)] (7) "Enforcing agency" means the department, or any local health department  
46           enforcing the provisions of this part.

47           [(7)] (8) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco  
48           specialty business.

49           [(8)] (9) "Local health department" means the same as that term is defined in Section  
50           26A-1-102.

51           [(9)] (10) "Manufacture" includes:

52           (a) to cast, construct, or make electronic cigarettes; or

53           (b) to blend, make, process, or prepare an electronic cigarette substance.

54           (11) "Manufacturer sealed electronic cigarette product" means:

55           (a) an electronic cigarette substance or container that the electronic cigarette  
56           manufacturer does not intend for a consumer to open or refill; or

57           (b) a prefilled electronic cigarette as that term is defined in Section 76-9-1101.

58           [(10)] (12) "Manufacturer sealed electronic cigarette substance" means an electronic  
59           cigarette substance that is sold in a container that:

60           (a) is prefilled by the electronic cigarette substance manufacturer; and

61           (b) the electronic cigarette manufacturer does not intend for a consumer to open.

62           [(11) "Manufacturer sealed eleetronic eigarette produet" means:]

63           [(a) an electronic cigarette substance or container that the electronic cigarette  
64           manufacturer does not intend for a consumer to open or refill; or]

65 [({b}) a prefilled electronic cigarette as that term is defined in Section 76-9-1101.]

66 [({12}) (13) "Nicotine" means the same as that term is defined in Section 76-9-1101.

67 [({13}) (14) "Nicotine product" means the same as that term is defined in Section 76-9-1101.

68 (15) "Non-nicotine inhalation product" means the same as that term is defined in Section  
69 76-9-1101.

70 (16) "Non-nicotine inhalation substance" means the same as that term is defined in Section  
71 76-9-1101.

72 [({14}) (17) "Non-tobacco shisha" means any product that:

73 (a) does not contain tobacco or nicotine; and

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

75 [({15}) (18) "Owner" means a person holding a 20% ownership interest in the business that is  
76 required to obtain a permit under this part.

77 [({16}) (19) "Permit" means a tobacco retail permit issued under Section 26B-7-507.

78 [({17}) (20) "Place of public access" means any enclosed indoor place of business,  
79 commerce, banking, financial service, or other service-related activity, whether publicly  
80 or privately owned and whether operated for profit or not, to which persons not  
81 employed at the place of public access have general and regular access or which the  
82 public uses, including:

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

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

85 (c) restaurants, cafes, or cafeterias;

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

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

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

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

91 (h) sports or fitness facilities;

92 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and  
93 breakfast" lodging facilities, and other similar lodging facilities, including the  
94 lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and  
95 restrooms of any of these;

96 (j)(i) any child care facility or program subject to licensure or certification under this  
97 title, including those operated in private homes, when any child cared for under  
98 that license is present; and

- (ii) any child care, other than child care as defined in Section 26B-2-401, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;
- (k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;
- (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or the members' guests or families;
- (m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;
- (n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;
- (o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and
- (p) a holder of a bar establishment license, as defined in Section 32B-1-102.

[~~(18)~~] (21)(a) "Proof of age" means:

- (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;
- (ii) a valid identification that:
  - (A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;
  - (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
  - (C) includes date of birth; and
  - (D) has a picture affixed;
- (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;
- (iv) a valid United States military identification card that:
  - (A) includes date of birth; and
  - (B) has a picture affixed; or
- (v) a valid passport.

133 with Section 53-3-207.

134 [19)] (22) "Publicly owned building or office" means any enclosed indoor place or portion  
135 of a place owned, leased, or rented by any state, county, or municipal government, or by  
136 any agency supported by appropriation of, or by contracts or grants from, funds derived  
137 from the collection of federal, state, county, or municipal taxes.

138 [20)] (23) "Retail tobacco specialty business" means the same as that term is defined:

- 139 (a) as it relates to a municipality, in Section 10-8-41.6; and
- 140 (b) as it relates to a county, in Section 17-50-333.

141 [21)] (24) "Shisha" means any product that:

- 142 (a) contains tobacco or nicotine; and
- 143 (b) is smoked or intended to be smoked in a hookah or water pipe.

144 [22)] (25) "Smoking" means:

- 145 (a) the possession of any lighted or heated tobacco product in any form;
- 146 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or  
147 hookah that contains:
  - 148 (i) tobacco or any plant product intended for inhalation;
  - 149 (ii) shisha or non-tobacco shisha;
  - 150 (iii) nicotine;
  - 151 (iv) a natural or synthetic tobacco substitute; or
  - 152 (v) a natural or synthetic flavored tobacco product;
- 153 (c) using an electronic cigarette; or
- 154 (d) using an oral smoking device intended to circumvent the prohibition of smoking in  
155 this part.

156 [23)] (26) "Tax commission license" means a license issued by the State Tax Commission  
157 under:

- 158 (a) Section 59-14-201 to sell a cigarette at retail;
- 159 (b) Section 59-14-301 to sell a tobacco product at retail; or
- 160 (c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

161 [24)] (27) "Tobacco product" means:

- 162 (a) a tobacco product as defined in Section 76-9-1101; or
- 163 (b) tobacco paraphernalia as defined in Section 76-9-1101.

164 [25)] (28) "Tobacco retailer" means a person that is required to obtain a tax commission  
165 license.

166 Section 2. Section **26B-7-505** is amended to read:

167       **26B-7-505 . Electronic cigarette products -- Labeling -- Requirements to sell --**

168       **Advertising -- Labeling of nicotine products containing nicotine.**

169       (1) The department shall, in consultation with a local health department and with input from  
170       members of the public, establish by rule made in accordance with Title 63G, Chapter 3,  
171       Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette  
172       substance that is not a manufacturer sealed electronic cigarette substance regarding:  
173       (a) labeling;  
174       (b) nicotine content;  
175       (c) packaging; and  
176       (d) product quality.

177       (2) On or before January 1, 2021, the department shall, in consultation with a local health  
178       department and with input from members of the public, establish by rule made in  
179       accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
180       requirements to sell a manufacturer sealed electronic cigarette product regarding:  
181       (a) labeling;  
182       (b) nicotine content;  
183       (c) packaging; and  
184       (d) product quality.

185       (3)(a) A person may not sell an electronic cigarette substance unless the electronic  
186       cigarette substance complies with the requirements established by the department  
187       under Subsection (1).

188       (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic  
189       cigarette product unless the manufacturer sealed electronic cigarette product complies  
190       with the requirements established by the department under Subsection (2).

191       (c) Notwithstanding Subsections (3)(a) and (3)(b), beginning on January 1, 2025, a  
192       person may not sell an electronic cigarette product that is not ~~a premarket authorized~~  
193       ~~or pending electronic cigarette product as that term is defined in Section 76-9-1101.]~~  
194       on the electronic cigarette product registry created in Section 59-14-810.

195       (4)(a) A local health department may not enact a rule or regulation regarding electronic  
196       cigarette substance labeling, nicotine content, packaging, or product quality that is  
197       not identical to the requirements established by the department under Subsections (1)  
198       and (2).

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

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

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

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

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

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

210 (ii) contains nicotine.

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

213 "This product contains nicotine."

214 Section 3. Section **26B-7-523** is enacted to read:

215 **26B-7-523 . Non-nicotine inhalation product -- Penalty.**

216 (1) A person may not sell a non-nicotine inhalation product, non-nicotine inhalation  
217 substance, or cannabinoid electronic cigarette unless the product is contained in the  
218 registry described in Section 59-14-810.

219 (2) The department and a local health department shall enforce this section under the  
220 procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal  
221 adjudicative proceeding, including:

222 (a) notifying a retailer of alleged violations;  
223 (b) conducting hearings;  
224 (c) determining violations; and  
225 (d) imposing civil administrative penalties.

226 (3) If a violation is found in an investigation by an enforcing agency or law enforcement,  
227 the enforcing agency shall:

228 (a) on a first violation, impose a penalty of \$1,500;  
229 (b) on a second violation, impose a penalty of \$5,000; and  
230 (c)(i) on a third violation, impose a penalty of \$6,000; and  
231 (ii) revoke the permit of the retailer.

232 (4)(a) Except when a transfer described in Subsection (5) occurs, a local health  
233 department may not issue a permit to:

234 (i) a retailer for whom a permit is revoked under Subsection (3); or

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

238 (b) A person whose permit is revoked under this section may not apply for a new permit  
239 for a period of 24 months after the day on which an enforcing agency revokes the  
240 permit.

241 (5) Violations of this section shall stay on the record for the retailer unless:

242 (a) the retailer is transferred to a new proprietor; and  
243 (b) the new proprietor provides documentation to the local health department that the  
244 new proprietor is acquiring the tobacco retailer in an arm's length transaction from  
245 the previous proprietor.

246 (6) At a civil hearing for enforcement under Subsection (2) or (3), evidence of the final  
247 criminal conviction of a person for violating Section 76-9-1115 is prima facie evidence  
248 of a violation of this section.

249 Section 4. Section **59-14-802** is amended to read:

250 **59-14-802 . Definitions.**

251 As used in this part:

252 (1) "Cannabinoid electronic cigarette" means the same as that term is defined in Section  
253 76-9-1101.

254 (2) "Licensee" means a person that holds a valid license to sell an electronic cigarette  
255 product or a nicotine product.

256 [({2})] (3)(a) "Manufacturer's sales price" means the amount that the manufacturer of an  
257 electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine  
258 product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic  
259 nicotine device charges after subtracting a discount.

260 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,  
261 regardless of:

262 (i) whether the electronic cigarette substance, prefilled electronic cigarette,  
263 alternative nicotine product, nontherapeutic nicotine device substance, or prefilled  
264 nontherapeutic nicotine device is shipped f.o.b. origin or f.o.b. destination; or  
265 (ii) who pays the original Utah destination freight charge.

266 (4) "Non-nicotine inhalation product" means the same as that term is defined in Section  
267 76-9-1101.

268 (5) "Non-nicotine inhalation substance" means the same as that term is defined in Section

269 76-9-1101.

270 (6) "Premarket authorized or pending electronic cigarette product" means the same as that  
271 term is defined in Section 76-9-1101.

272 Section 5. Section **59-14-810** is amended to read:

273 **59-14-810 . Electronic cigarette product registry.**

274 (1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that  
275 is sold in this state, whether directly or through a distributor, wholesaler, retailer, or  
276 similar intermediary or intermediaries, shall certify under penalty of perjury on a form  
277 and in the manner prescribed by the commission, that[:] the manufacturer agrees to  
278 comply with this section and:

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

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

283 (a) for an electronic cigarette product that contains nicotine, that the product is a  
284 premarket authorized or pending electronic cigarette product;

285 (b) for an electronic cigarette product that is a non-nicotine inhalation product, that the  
286 product is approved for sale in interstate commerce by the United States Food and  
287 Drug Administration;

288 (c) for an electronic cigarette product that is a non-nicotine inhalation substance, that the  
289 product is a premarket authorized or pending electronic cigarette product; or

290 (d) for an electronic cigarette product that is a cannabinoid electronic cigarette, that the  
291 product is registered with the Utah Department of Agriculture and Food in  
292 accordance with Section 4-41-104 and not subject to the premarket tobacco  
293 authorization process overseen by the United States Food and Drug Administration  
294 under 21 U.S.C. Sec. 387j(c)(1)(A)(i).

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

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

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

300 (ii) for an electronic cigarette product that contains nicotine:

301 (A) a copy of the order granting a premarket tobacco product application of the  
302 electronic cigarette product by the United States Food and Drug

Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

(B) evidence that the premarket tobacco product application for the electronic cigarette product or nicotine product was submitted to the United States Food and Drug Administration before September 9, 2020, and a final authorization or order has not yet taken effect;

(iii) for an electronic cigarette product that is a non-nicotine inhalation product, evidence that the product is approved for sale in interstate commerce by the United States Food and Drug Administration;

(iv) for an electronic cigarette product that is a non-nicotine inhalation substance;

(A) a copy of the order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

(B) evidence that the premarket tobacco product application for the electronic cigarette product or nicotine product was submitted to the United States Food and Drug Administration before September 9, 2020, and a final authorization or order has not yet taken effect;

(v) for an electronic cigarette that is a cannabinoid electronic cigarette, evidence that the product is registered with the Utah Department of Agriculture and Food in accordance with under Section 4-41-104;

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

[(iv)] (vii) information described in Subsection (10) if applicable.

(b) The commission shall make the materials submitted under Subsection (3)(a) available to the Department of Health and Human Services for review and ap-

(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

- (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.

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

339 (i) recertify that the information contained in the certification is correct and accurate;  
340 (ii) correct or amend information if necessary; and  
341 (iii) pay a \$250 nonrefundable fee for each electronic cigarette product on the registry  
342 that is manufactured by the manufacturer.

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

345 (f) The commission shall:

346 (i) provide an electronic notification to a manufacturer that has not submitted a  
347 recertification under Subsection (3)(d); and  
348 (ii) remove a manufacturer or an electronic cigarette product that is not recertified  
349 from the registry by March 15.

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

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

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

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

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

369 (c) Subsection (5)(b) does not apply to a manufacturer failing:

370 (i) to decertify an electronic cigarette product;

- (ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or
- (iii) to comply with Subsection (10).

(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.

(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.

(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.

(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.

(8)(a) A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic cigarette product in this state that is not included in the registry shall be subject to a civil penalty of:

- (i) \$1,000 for each product offered for sale in violation of this section; and
- (ii) \$100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

(b) The commission shall suspend the person's license issued under Section 59-14-803 for a violation of Subsection (8)(a) as follows:

- (i) for a second violation within a 12-month period, at least 14 days;
- (ii) for a third violation within a 12-month period, at least 60 days; or
- (iii) for a fourth violation within a 12-month period, at least one year.

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

- (i) \$1,000 for each product offered for retail sale in violation of this section; and
- (ii) \$100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

(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

405 representation.

406 (e) A repeated violation of this section shall constitute a deceptive act or practice as  
407 provided in Sections 13-11-4 and 13-11a-3 and shall be subject to any remedies or  
408 penalties available for a violation of those sections.

409 (9)(a) To assist in ensuring compliance and enforcement of this section and Section  
410 26A-1-131, the commission shall disclose to the following entities, upon request, any  
411 information obtained under this section:

412 (i) the Department of Health and Human Services;  
413 (ii) a local health department; or  
414 (iii) the attorney general.

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

417 (10)(a)[~~(f)~~] The commission may not list a nonresident manufacturer of an electronic  
418 cigarette product in the registry unless:

419 [~~(A)~~] (i) the nonresident manufacturer has registered to do business in the state as a  
420 foreign corporation or business entity; or  
421 [~~(B)~~] (ii) the nonresident manufacturer appoints and maintains without interruption  
422 the services of an agent in this state to receive any service of process on behalf of  
423 the manufacturer.

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

426 (c)(i) A nonresident manufacturer shall provide notice to the commission 30 days  
427 before the termination of the authority of an agent and shall further provide proof  
428 to the satisfaction of the commission of the appointment of a new agent no less  
429 than five calendar days prior to the termination of an existing agent appointment.

430 (ii) In the event an agent terminates an agency appointment, the manufacturer shall  
431 notify the commission of the termination within five calendar days and shall  
432 include proof to the satisfaction of the commission of the appointment of a new  
433 agent.

434 (11) Before May 31 of each year, the commission and the Department of Health and  
435 Human Services shall provide a report to the Revenue and Taxation Interim Committee  
436 and the Health and Human Services Interim Committee regarding:

437 (a) the status of the registry;  
438 (b) manufacturers and products included in the registry;

439 (c) revenue and expenditures related to administration of this section; and  
440 (d) enforcement activities undertaken under this section and Section 26A-1-131.

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

443 (13) The commission, in consultation with the Department of Health and Human Services,  
444 may make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
445 Rulemaking Act, to implement this section.

446 Section 6. Section **76-9-1101** is amended to read:

447 **76-9-1101 . Definitions.**

448 As used in this part:

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

452 (i) contains nicotine;  
453 (ii) is intended for human consumption;  
454 (iii) is not purchased with a prescription from a licensed physician; and  
455 (iv) is not approved by the United States Food and Drug Administration as nicotine  
456 replacement therapy.

457 (b) "Alternative nicotine product" includes:

458 (i) pure nicotine;  
459 (ii) snortable nicotine;  
460 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and  
461 (iv) nicotine-laced food and beverage.

462 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that  
463 contains naturally occurring nicotine.

464 (2) "Cannabinoid electronic cigarette" means an electronic cigarette product that:

465 (a) is also a cannabinoid product, as defined in Section 4-41-102; and  
466 (b) does not contain nicotine.

467 [(2)] (3) "Cigar" means a product that contains nicotine, is intended to be burned under  
468 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco,  
469 or in any substance containing tobacco, other than any roll of tobacco that is a cigarette.

470 [(3)] (4) "Cigarette" means a product that contains nicotine, is intended to be heated or  
471 burned under ordinary conditions of use, and consists of:

472 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

473 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of  
474 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is  
475 likely to be offered to, or purchased by, consumers as a cigarette described in  
476 Subsection [(3)(a)] (4)(a).

477 [(4)] (5)(a) "Electronic cigarette" means:

478 (i) an electronic oral device:

479 (A) that provides an aerosol or a vapor of nicotine or other substance; and  
480 (B) that simulates smoking through the use or inhalation of the device;

481 (ii) a component of the device described in Subsection [(4)(a)(i)] (5)(a)(i); or

482 (iii) an accessory sold in the same package as the device described in Subsection [(4)(a)(i)] (5)(a)(i).

484 (b) "Electronic cigarette" includes an oral device that is:

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

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

487 (A) an e-cigarette;

488 (B) an e-cigar;

489 (C) an e-pipe; or

490 (D) any other product name or descriptor, if the function of the product meets the  
491 definition of Subsection [(4)(a)] (5)(a).

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

494 [(5)] (6)(a) "Electronic cigarette product" means an electronic cigarette, an electronic  
495 cigarette substance, or a prefilled electronic cigarette.

496 (b) Electronic cigarette product" includes a non-nicotine inhalation product, a  
497 non-nicotine inhalation substance, and a cannabinoid electronic cigarette.

498 [(6)] (7) "Electronic cigarette substance" means any substance[, including liquid containing  
499 nicotine,] containing nicotine that is used or intended for use in an electronic cigarette.

500 [(7)] (8)(a) "Flavored electronic cigarette product" means an electronic cigarette product  
501 that has a taste or smell that is distinguishable by an ordinary consumer either before  
502 or during use or consumption of the electronic cigarette product.

503 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that is  
504 labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy,  
505 cocoa, dessert, alcoholic beverage, herb, spice, or mint.

506 (c) "Flavored electronic cigarette product" does not include an electronic cigarette

507 product that has a taste or smell of only tobacco or menthol.

508 [§8] (9) "Nicotine" means a poisonous, nitrogen containing chemical that is made  
509 synthetically or derived from tobacco or other plants.

510 [§9] (10) "Nicotine product" means an alternative nicotine product or a nontherapeutic  
511 nicotine product.

512 (11)(a) "Non-nicotine inhalation product" means a product that:

- 513 (i) is a manufacturer sealed prefilled electronic cigarette that the manufacturer does  
not intend for a consumer to open;
- 515 (ii) contains a substance other than nicotine;
- 516 (iii) is designed specifically to be used with an electronic cigarette to produce an  
aerosol or vapor of the substance described in Subsection (11)(a)(ii);
- 517 (iv) does not contain a cannabinoid; and
- 519 (v) does not contain nicotine.

520 (b) "Non-nicotine inhalation product" includes a product that contains a vitamin,  
521 mineral, dietary supplement, or an alkaloid.

522 (c) "Non-nicotine inhalation product" does not include:

- 523 (i) a product that the manufacturer did not design to be placed directly on an  
individual's mouth to simulate smoking; or
- 525 (ii) a medical cannabis device, as that term is defined in Section 26B-4-201.

526 (12) "Non-nicotine inhalation substance" means any substance not containing nicotine or a  
527 cannabinoid that is used or intended for use in an electronic cigarette.

528 [§10] (13)(a) "Nontherapeutic nicotine device" means a device that:

- 529 (i) has a pressurized canister that is used to administer nicotine to the user through  
530 inhalation or intranasally;
- 531 (ii) is not purchased with a prescription from a licensed physician; and
- 532 (iii) is not approved by the United States Food and Drug Administration as nicotine  
533 replacement therapy.

534 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a  
535 nontherapeutic nicotine nasal spray.

536 [§11] (14) "Nontherapeutic nicotine device substance" means a substance that:

- 537 (a) contains nicotine;
- 538 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
- 539 (c) is not purchased with a prescription from a licensed physician; and
- 540 (d) is not approved by the United States Food and Drug Administration as nicotine

541 replacement therapy.

542 [§12] (15) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a  
543 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

544 [§13] (16) "Place of business" includes:

- 545 (a) a shop;
- 546 (b) a store;
- 547 (c) a factory;
- 548 (d) a public garage;
- 549 (e) an office;
- 550 (f) a theater;
- 551 (g) a recreation hall;
- 552 (h) a dance hall;
- 553 (i) a poolroom;
- 554 (j) a cafe;
- 555 (k) a cafeteria;
- 556 (l) a cabaret;
- 557 (m) a restaurant;
- 558 (n) a hotel;
- 559 (o) a lodging house;
- 560 (p) a streetcar;
- 561 (q) a bus;
- 562 (r) an interurban or railway passenger coach;
- 563 (s) a waiting room; and
- 564 (t) any other place of business.

565 [§14] (17) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled  
566 with an electronic cigarette substance.

567 [§15] (18) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine  
568 device that is sold prefilled with a nontherapeutic nicotine device substance.

569 [§16] (19) "Premarket authorized or pending electronic cigarette product" means an  
570 electronic cigarette product that:

- 571 (a)(i) has been approved by an order granting a premarket tobacco product  
572 application of the electronic cigarette product by the United States Food and Drug  
573 Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or
- 574 (ii)(A) was marketed in the United States on or before August 8, 2016;

575 (B) the manufacturer submitted a premarket tobacco product application for the  
576 electronic cigarette product to the United States Food and Drug Administration  
577 under 21 U.S.C. Sec. 387j on or before September 9, 2020; and  
578 (C) has an application described in Subsection ~~(16)(a)(ii)~~ (19)(a)(ii) that either  
579 remains under review by the United States Food and Drug Administration or a  
580 final decision on the application has not taken effect; and

581 (b) does not exceed:

582 (i) 4.0% nicotine by weight per container; or  
583 (ii) a nicotine concentration of 40 milligrams per milliliter.

584 ~~(17)~~ (20) "Retail tobacco specialty business" means the same as that term is defined in  
585 Section 26B-7-501.

586 ~~(18)~~ (21) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other  
587 lighted smoking equipment.

588 ~~(19)~~ (22)(a) "Tobacco paraphernalia" means equipment, product, or material of any  
589 kind that is used, intended for use, or designed for use to package, repackage, store,  
590 contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an  
591 electronic cigarette substance, or a nontherapeutic nicotine device substance into the  
592 human body.

593 (b) "Tobacco paraphernalia" includes:

594 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without  
595 screens, permanent screens, hashish heads, or punctured metal bowls;  
596 (ii) water pipes;  
597 (iii) carburetion tubes and devices;  
598 (iv) smoking and carburetion masks;  
599 (v) roach clips, meaning objects used to hold burning material, such as a cigarette,  
600 that has become too small or too short to be held in the hand;  
601 (vi) chamber pipes;  
602 (vii) carburetor pipes;  
603 (viii) electric pipes;  
604 (ix) air-driven pipes;  
605 (x) chillums;  
606 (xi) bongs; and  
607 (xii) ice pipes or chillers.

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

609 [({20})] (23) "Tobacco product" means:

610 (a) a cigar;

611 (b) a cigarette; or

612 (c) tobacco in any form, including:

613 (i) chewing tobacco; and

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

615 [({21})] (24) "Tobacco retailer" means:

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

617 (b) a retail tobacco specialty business.

618 Section 7. Section **76-9-1115** is amended to read:

**619 76-9-1115 . Illegal distribution of an electronic cigarette product without federal  
620 authorization.**

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

622 (2) An actor commits illegal distribution of an electronic cigarette product without federal  
623 authorization if the actor gives, distributes, sells, offers for sale, or furnishes to any  
624 person an electronic cigarette product that is not [a premarket authorized or pending  
625 electronic cigarette product.] on the electronic cigarette product registry created in  
626 Section 59-14-810.

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

628 (a) a class C misdemeanor on the first offense; or

629 (b) a class B misdemeanor on a subsequent offense.

630 Section 8. **Effective Date.**

631 This bill takes effect on May 6, 2026.