

Tyler Clancy proposes the following substitute bill:

Nicotine Product Tax Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Jerry W Stevenson

LONG TITLE

General Description:

This bill modifies provisions related to nicotine product taxes.

Highlighted Provisions:

This bill:

- increases the rate of the tax levied on cigarettes;
- replaces a weight-based tax rate for moist snuff and alternative nicotine products with a tax rate based on a percentage of the manufacturer's sales price;
- repeals provisions providing for a tax rate reduction for certain modified risk tobacco products;
- provides for an annual distribution of a portion of the money deposited into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account to fund certain law enforcement officer positions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-14-204 (Effective 07/01/26), as last amended by Laws of Utah 2016, Chapter 168

59-14-302 (Effective 07/01/26), as last amended by Laws of Utah 2020, Chapter 347

59-14-804 (Effective 07/01/26), as last amended by Laws of Utah 2023, Chapter 300

59-14-807 (Effective 07/01/26) (Partially Repealed 07/01/30), as last amended by Laws of Utah 2025, Chapters 173, 366

REPEALS:

29 **59-14-104 (Effective 07/01/26)**, as enacted by Laws of Utah 2020, Chapter 347

30

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

32 Section 1. Section **59-14-204** is amended to read:

33 **59-14-204 (Effective 07/01/26). Tax basis -- Rate -- Future increase -- Cigarette**
 34 **Tax Restricted Account -- Appropriation and expenditure of revenues.**

35 (1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a tax
 36 upon the sale, use, storage, or distribution of cigarettes in the state.

37 (2) The ~~[rates of the tax levied under Subsection (1) are, beginning on July 1, 2010:]~~ rate of
 38 the tax levied under Subsection (1) is 18.5 cents on each cigarette.

39 ~~[(a) 8.5 cents on each cigarette, for all cigarettes weighing not more than three pounds~~
 40 ~~per thousand cigarettes; and]~~

41 ~~[(b) 9.963 cents on each cigarette, for all cigarettes weighing in excess of three pounds~~
 42 ~~per thousand cigarettes.]~~

43 (3) Except as otherwise provided under this chapter, the tax levied under Subsection (1)
 44 shall be paid by any person who is the manufacturer, jobber, importer, distributor,
 45 wholesaler, retailer, user, or consumer.

46 (4) The tax rates specified in this section shall be increased by the commission by the same
 47 amount as any future reduction in the federal excise tax on cigarettes.

48 (5)(a) There is created within the General Fund a restricted account known as the
 49 "Cigarette Tax Restricted Account."

50 (b) The Cigarette Tax Restricted Account consists of:

51 (i) the first \$7,950,000 of the revenues collected from a tax under this section; and

52 (ii) any other appropriations the Legislature makes to the Cigarette Tax Restricted
 53 Account.

54 (c) For each fiscal year beginning with fiscal year 2011-12 and subject to appropriation
 55 by the Legislature, the Division of Finance shall distribute money from the Cigarette
 56 Tax Restricted Account as follows:

57 (i) \$250,000 to the Department of Health to be expended for a tobacco prevention
 58 and control media campaign targeted towards children;

59 (ii) \$2,900,000 to the Department of Health to be expended for tobacco prevention,
 60 reduction, cessation, and control programs;

61 (iii) \$2,000,000 to the University of Utah Health Sciences Center for the Huntsman
 62 Cancer Institute to be expended for cancer research; and

63 (iv) \$2,800,000 to the University of Utah Health Sciences Center to be expended for
64 medical education at the University of Utah School of Medicine.

65 (d) In determining how to appropriate revenue deposited into the Cigarette Tax
66 Restricted Account that is not otherwise appropriated under Subsection (5)(c), the
67 Legislature shall give particular consideration to enhancing Medicaid provider
68 reimbursement rates and medical coverage for the uninsured.

69 Section 2. Section **59-14-302** is amended to read:

70 **59-14-302 (Effective 07/01/26). Tax basis -- Rates.**

71 (1) As used in this section:

72 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco
73 product charges after subtracting a discount.

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

76 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

77 (ii) who pays the original Utah destination freight charge.

78 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

79 (3)(a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid by
80 the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

81 (b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling
82 machine shall be paid by the cigarette rolling machine operator.

83 (4) For tobacco products except for~~[moist snuff,]~~ a little cigar~~;~~ or a cigarette produced
84 from a cigarette rolling machine, the amount of the tax under this section is .86
85 multiplied by the manufacturer's sales price.

86 ~~[(5)(a) Subject to Subsection (5)(b), the tax under this section on moist snuff is imposed:]~~

87 ~~[(i) at a rate of \$1.83 per ounce; and]~~

88 ~~[(ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.]~~

89 ~~[(b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce,~~
90 ~~a proportionate amount of the tax described in Subsection (5)(a) is imposed:]~~

91 ~~[(i) on that fractional part of one ounce; and]~~

92 ~~[(ii) in accordance with rules made by the commission in accordance with Title 63G,~~
93 ~~Chapter 3, Utah Administrative Rulemaking Act.]~~

94 ~~[(6)]~~ (5)(a) A little cigar is taxed at the same tax rates as a cigarette is taxed under
95 Subsection 59-14-204(2).

96 (b)(i) Subject to Subsection ~~[(6)(b)(ii)]~~ (5)(b)(ii), a cigarette produced from a cigarette

97 rolling machine is taxed at the same tax rates as a cigarette is taxed under
 98 Subsection 59-14-204(2).

99 (ii) A tax under this Subsection [~~(6)(b)~~] (5)(b) is imposed on the date the cigarette is
 100 produced from the cigarette rolling machine.

101 [~~(7)~~] (6)(a) Moisture content of a tobacco product is determined at the time of packaging.

102 (b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

103 (i) for a period of three years after the last day on which the manufacturer distributes
 104 the tobacco product in, or into, Utah, keep valid scientific evidence of the
 105 moisture content of the tobacco product available for review by the commission,
 106 upon demand; and

107 (ii) provide a document, to the person described in Subsection (3) to whom the
 108 manufacturer distributes the tobacco product, that certifies the moisture content of
 109 the tobacco product, as verified by the scientific evidence described in Subsection [
 110 ~~(7)(b)(i)~~] (6)(b)(i).

111 (c) A manufacturer who fails to comply with the requirements of Subsection [~~(7)(b)~~]
 112 (6)(b) is liable for the nonpayment or underpayment of taxes on the tobacco product
 113 by a person who relies, in good faith, on the document described in Subsection [
 114 ~~(7)(b)(ii)~~] (6)(b)(ii).

115 (d) A person described in Subsection (3) who is required to pay tax on a tobacco product:

116 (i) shall, for a period of three years after the last day on which the person pays the tax
 117 on the tobacco product, keep the document described in Subsection [~~(7)(b)(ii)~~]
 118 (6)(b)(ii) available for review by the commission, upon demand; and

119 (ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due
 120 to the person's good faith reliance on the document described in Subsection [
 121 ~~(7)(b)(ii)~~] (6)(b)(ii).

122 Section 3. Section **59-14-804** is amended to read:

123 **59-14-804 (Effective 07/01/26). Taxation of electronic cigarette substance,**
 124 **prefilled electronic cigarette, alternative nicotine product, nontherapeutic nicotine device**
 125 **substance, and prefilled nontherapeutic nicotine device.**

126 (1)(a) Beginning on July 1, 2020, a tax is imposed upon the following:

127 (i) an electronic cigarette substance; and

128 (ii) a prefilled electronic cigarette.

129 (b) Beginning on July 1, 2021, a tax is imposed upon the following:

130 (i) a nontherapeutic nicotine device substance; and

- 131 (ii) a prefilled nontherapeutic nicotine device.
- 132 (c) Beginning on July 1, 2021, a tax is imposed upon an alternative nicotine product.
- 133 (2)(a) The amount of tax imposed under Subsections (1)(a) and (b) is .56 multiplied by
134 the manufacturer's sales price.
- 135 (b) The amount of tax imposed under Subsection (1)(c) is .86 multiplied by the
136 manufacturer's sales price.
- 137 [~~(b)(i) The tax under Subsection (1)(c) on an alternative nicotine product is imposed:~~]
138 [~~(A) at a rate of \$1.83 per ounce; and]~~
139 [~~(B) on the basis of the net weight of the alternative nicotine product as listed by~~
140 ~~the manufacturer.]~~
- 141 [~~(ii) If the net weight of the alternative nicotine product is in a quantity that is a~~
142 ~~fractional part of one ounce, a proportionate amount of the tax described in~~
143 ~~Subsection (2)(b)(i)(A) is imposed:~~]
144 [~~(A) on that fractional part of one ounce; and]~~
145 [~~(B) in accordance with rules made by the commission in accordance with Title~~
146 ~~63G, Chapter 3, Utah Administrative Rulemaking Act.]~~
- 147 (3) If a product is sold in the same package as a product that is taxed under Subsection (1),
148 the tax described in Subsection (2) shall apply to the wholesale manufacturer's sale price
149 of the entire packaged product.
- 150 (4)(a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall
151 pay the tax levied under Subsection (1) at the time that an electronic cigarette
152 substance, a prefilled electronic cigarette, an alternative nicotine product, a
153 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine
154 device is first received in the state.
- 155 (b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not
156 resell an electronic cigarette substance, a prefilled electronic cigarette, an alternative
157 nicotine product, a nontherapeutic nicotine device substance, or a prefilled
158 nontherapeutic nicotine device to another distributor, another retailer, or a consumer
159 before paying the tax levied under Subsection (1).
- 160 (5)(a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall
161 remit the taxes collected in accordance with this section to the commission.
- 162 (b) The commission shall deposit revenues generated by the tax imposed by this section
163 into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted
164 Account created in Section 59-14-807.

165 Section 4. Section **59-14-807** is amended to read:

166 **59-14-807 (Effective 07/01/26) (Partially Repealed 07/01/30). Electronic**
167 **Cigarette Substance and Nicotine Product Proceeds Restricted Account.**

168 (1) There is created within the General Fund a restricted account known as the "Electronic
169 Cigarette Substance and Nicotine Product Proceeds Restricted Account."

170 (2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account
171 consists of:

172 (a) revenue collected from the tax imposed by Section 59-14-804;

173 (b) fees and penalties collected under Section 59-14-810;

174 (c) all money received by the attorney general or the Department of Commerce as a
175 result of any judgment, settlement, or compromise of claims pertaining to alleged
176 violations of law related to the manufacture, marketing, distribution, or sale of
177 electronic cigarette products, as defined in Section 76-9-1101:

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

180 (ii) after reimbursement to the attorney general and the Department of Commerce for
181 expenses related to the matters described in this Subsection (2)(c); and

182 (d) amounts appropriated by the Legislature.

183 (3)(a) Subject to Subsections (3)(b) and (c), for each fiscal year and subject to

184 appropriation by the Legislature, the Division of Finance shall distribute from the

185 Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

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

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

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

- 199 controlled substances to minors;
- 200 (iv) \$3,000,000 to the Department of Health and Human Services for community
201 partner prevention programs, which the Department of Health and Human
202 Services shall allocate to the local health departments using the formula created in
203 accordance with Section 26A-1-116;
- 204 (v) \$1,000,000 to the Department of Health and Human Services for statewide
205 cessation programs and prevention education;
- 206 (vi) \$2,000,000 to the Department of Health and Human Services for alcohol,
207 tobacco, and other drug prevention, reduction, cessation, and control programs
208 that promote unified messages and make use of media outlets, including radio,
209 newspaper, billboards, and television; [~~and~~]
- 210 (vii) \$5,084,200 to the State Board of Education for school-based prevention
211 programs[-] ; and
- 212 (viii) \$2,000,000 to the Department of Public Safety, in addition to the distribution
213 described in Subsection (3)(a)(ii), for law enforcement officers:
- 214 (A) of the law enforcement agency of a city that is the seat of government for a
215 county of the first class; and
- 216 (B) aimed at disrupting organizations and networks that provide tobacco products,
217 electronic cigarette products, nicotine products, and other illegal controlled
218 substances to minors.
- 219 (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds
220 Restricted Account is insufficient to cover the distributions described in Subsection
221 (3)(a), the Division of Finance shall make the distributions under Subsection (3)(a):
- 222 (i) sequentially in the order of priority the distributions are listed under Subsection
223 (3)(a);
- 224 (ii) in full or, if insufficient funds are available to satisfy the next distribution in the
225 sequence, in part; and
- 226 (iii) until the available funds in the Electronic Cigarette Substance and Nicotine
227 Product Proceeds Restricted Account are exhausted.
- 228 (c) For each fiscal year and subject to appropriation by the Legislature, the Division of
229 Finance shall distribute from the funds deposited under Section 59-14-810 into the
230 Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:
- 231 (i) to the commission, in an amount equal to the amount necessary to create and
232 maintain the registry described in Section 59-14-810;

- 233 (ii) to the Department of Health and Human Services, in an amount necessary for
234 completing duties described in Section 59-14-810; and
- 235 (iii) to the Department of Health and Human Services, the remainder to be divided
236 among the local health departments for inspection and enforcement described in
237 Sections 26A-1-131 and 59-14-810.
- 238 (4)(a) The local health departments shall use the money received in accordance with
239 Subsection (3)(a) for enforcing:
- 240 (i) the regulation provisions described in Section 26B-7-505;
241 (ii) the labeling requirement described in Section 26B-7-505; and
242 (iii) the penalty provisions described in Section 26B-7-518.
- 243 (b) The Department of Health and Human Services shall use the money received in
244 accordance with Subsection (3)(a)(v) for the Youth Electronic Cigarette, Marijuana,
245 and Other Drug Prevention Program created in Section 26B-1-428.
- 246 (c) The local health departments shall use the money received in accordance with
247 Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and
248 Other Drug Prevention Grant Program created in Section 26A-1-129.
- 249 (d) The State Board of Education shall use the money received in accordance with
250 Subsection (3)(a)(vii) to distribute to local education agencies to pay for:
- 251 (i)(A) stipends for positive behaviors specialists as described in Subsection
252 53G-10-407(4)(a)(i);
253 (B) the cost of administering the positive behaviors plan as described in
254 Subsection 53G-10-407(4)(a)(ii); and
255 (C) the cost of implementing an Underage Drinking and Substance Abuse
256 Prevention Program in grade 4 or 5, as described in Subsection
257 53G-10-406(3)(b); or
258 (ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.
- 259 (e) The Department of Public Safety shall distribute the money received in accordance
260 with Subsection (3)(a)(viii) to the law enforcement agency of a city that is the seat of
261 government for a county of the first class to fund 10 law enforcement officer
262 positions responsible for conducting the operations described in Subsection
263 (3)(a)(viii)(B).
- 264 (5)(a) The fund shall earn interest.
- 265 (b) All interest earned on fund money shall be deposited into the fund.
- 266 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette

267 Substance and Nicotine Product Proceeds Restricted Account after the distribution
268 described in Subsection (3) may only be used for:
269 (a) funding commission personnel to enforce compliance with the tax collection
270 requirements of this part; and
271 (b) programs and activities related to the prevention and cessation of electronic cigarette,
272 nicotine products, marijuana, and other drug use.

273 Section 5. **Repealer.**

274 This bill repeals:

275 Section **59-14-104, Rate reduction for modified risk tobacco products.**

276 Section 6. **Effective Date.**

277 This bill takes effect on July 1, 2026.