

1

Tobacco Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson S. Burton

Senate Sponsor: Kirk A. Cullimore

2

LONG TITLE

3

General Description:

4 This bill enacts provisions relating to sales of cigars and pipe tobacco.

Highlighted Provisions:

5 This bill:

6

- 8 ▶ authorizes telephone, mail, internet, and other remote sales of a cigar or pipe tobacco;
- 9 ▶ provides for the licensing, bonding, and taxation of cigar and pipe tobacco transactions

10 between a remote seller and a consumer in the state;- 11 ▶ establishes a criminal penalty for failing to comply with the licensing, bonding, and tax

12 collection requirements; and- 13 ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

15 None

Other Special Clauses:

17 This bill provides a special effective date.

Utah Code Sections Affected:

19 AMENDS:

20 **59-14-102**, as last amended by Laws of Utah 2025, Chapter 17321 **59-14-302**, as last amended by Laws of Utah 2020, Chapter 34722 **76-9-1107**, as renumbered and amended by Laws of Utah 2025, Chapter 173

23 ENACTS:

24 **59-14-901**, Utah Code Annotated 195325 **59-14-902**, Utah Code Annotated 195326 **59-14-903**, Utah Code Annotated 195327 **59-14-904**, Utah Code Annotated 195328 **59-14-905**, Utah Code Annotated 195329 **59-14-906**, Utah Code Annotated 1953

30

H.B. 447

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

32 Section 1. Section **59-14-102** is amended to read:

33 **59-14-102 . Definitions.**

34 As used in this chapter:

35 (1) "Alternative nicotine product" means the same as that term is defined in Section
36 76-9-1101.

37 (2)(a) "Cigar" means the same as that term is defined in Section 76-9-1101.

38 (b) "Cigar" does not include a little cigar.

39 [{2}] (3) "Cigarette" means a roll made wholly or in part of tobacco:

40 (a) regardless of:

41 (i) the size of the roll;

42 (ii) the shape of the roll;

43 (iii) whether the tobacco is flavored, adulterated, or mixed with any other ingredient;
44 or

45 (iv) whether the tobacco is heated or burned; and

46 (b) if the roll has a wrapper or cover that is made of paper or any other substance or
47 material except tobacco.

48 [{3}] (4) "Cigarette rolling machine" means a device or machine that has the capability to
49 produce at least 150 cigarettes in less than 30 minutes.

50 [{4}] (5) "Cigarette rolling machine operator" means a person [who] that:

51 (a)(i) controls, leases, owns, possesses, or otherwise has available for use a cigarette
52 rolling machine; and

53 (ii) makes the cigarette rolling machine available for use by another person to
54 produce a cigarette; or

55 (b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.

56 [{5}] (6) "Consumer" means a person that is not required:

57 (a) under Section 59-14-201 to obtain a license under Section 59-14-202;

58 (b) under Section 59-14-301 to obtain a license under Section 59-14-202;[or]

59 (c) to obtain a license under Section 59-14-803[.] ; or

60 (d) to obtain a license under Section 59-14-903.

61 [{6}] (7) "Counterfeit cigarette" means:

62 (a) a cigarette that has a false manufacturing label; or

63 (b) a package of cigarettes bearing a counterfeit tax stamp.

64 [{7}] (8)(a) "Electronic cigarette" means the same as that term is defined in Section

65 76-9-1101.

66 (b) "Electronic cigarette" does not include a cigarette or a tobacco product.

67 [(8)] (9) "Electronic cigarette product" means the same as that term is defined in Section
68 76-9-1101.

69 [(9)] (10) "Electronic cigarette substance" means the same as that term is defined in Section
70 76-9-1101.

71 [(10)] (11) "Importer" means a person that imports into the United States, either directly or
72 indirectly, a finished cigarette for sale or distribution.

73 [(11)] (12) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or
74 any other person doing business as a distributor or retailer of cigarettes on tribal lands
75 located in the state.

76 [(12)] (13) "Little cigar" means a roll for smoking that:

- 77 (a) is made wholly or in part of tobacco;
- 78 (b) uses an integrated cellulose acetate filter or other similar filter; and
- 79 (c) is wrapped in a substance:
 - 80 (i) containing tobacco; and
 - 81 (ii) that is not exclusively natural leaf tobacco.

82 [(13)] (14)(a) [Except as provided in Subsection (13)(b), "manufacturer"] "Manufacturer"
83 means a person that:

- 84 (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or
- 85 (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels,
86 repackages, relabels, or imports an electronic cigarette product or a nicotine
87 product.

88 (b) "Manufacturer" does not include a cigarette rolling machine operator.

89 [(14)] (15) "Moist snuff" means tobacco that:

- 90 (a) is finely cut, ground, or powdered;
- 91 (b) has at least 45% moisture content, as determined by the commission by rule made in
92 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 93 (c) is not intended to be:
 - 94 (i) smoked; or
 - 95 (ii) placed in the nasal cavity; and
- 96 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or
97 distributed in single-use units, including:
 - 98 (i) tablets;

- (ii) lozenges;
- (iii) strips;
- (iv) sticks; or
- (v) packages containing multiple single-use units.

[15] (16) "Nicotine" means the same as that term is defined in Section 76-9-1101.

[{16}] (17) "Nicotine product" means the same as that term is defined in Section 76-9-1101.
[{17}] (18) "Nontherapeutic nicotine device" means the same as that term is defined in
Section 76-9-1101.

[48] (19) "Nontherapeutic nicotine device substance" means the same as that term is defined in Section 76-9-1101.

[49] (20) "Nontherapeutic nicotine product" means the same as that term is defined in Section 76-9-1101.

(21) "Pipe tobacco" means loose leaf tobacco that:

(a) is intended to be burned in a pipe; or

(b) because of the tobacco's appearance, type, packaging, or labeling, is suitable to be used, and likely to be offered or purchased for use, in a pipe.

[(20)] (22) "Prefilled electronic cigarette" means the same as that term is defined in Section 76-9-1101.

[24] (23) "Prefilled nontherapeutic nicotine device" means the same as that term is defined in Section 76-9-1101.

[22) (24) "Retailer" means a person that:

(a) sells or distributes a cigarette, a cigar, pipe tobacco, an electronic cigarette product, or a nicotine product to a consumer in the state; or

(b) intends to sell or distribute a cigarette, a cigar, pipe tobacco, an electronic cigarette product, or a nicotine product to a consumer in the state.

[{23}] (25) "Stamp" means the indicia required to be placed on a cigarette package that evidences payment of the tax on cigarettes required by Section 59-14-205.

[24] (26)(a) "Tobacco product" means a product made of, or containing, tobacco.

(b) "Tobacco product" includes:

- (i) a cigarette produced from a cigarette rolling machine;
- (ii) a little cigar; or
- (iii) moist snuff.

(c) "Tobacco product" does not include a cigarette.

[25] (27) "Tribal lands" means land held by the United States in trust for a federally

133 recognized Indian tribe.

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

135 **59-14-302 . Tax basis -- Rates.**

136 (1) As used in this section:

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

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

141 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or
142 (ii) who pays the original Utah destination freight charge.

143 (2) Except as provided in Section 59-14-904, there is levied a tax upon the sale, use,
144 or storage of tobacco products in the state.

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

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

149 (4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced from a
150 cigarette rolling machine, the amount of the tax under this section is .86 multiplied by
151 the manufacturer's sales price.

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

153 (i) at a rate of \$1.83 per ounce; and

154 (ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.

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

157 (i) on that fractional part of one ounce; and

158 (ii) in accordance with rules made by the commission in accordance with Title 63G,
159 Chapter 3, Utah Administrative Rulemaking Act.

160 (6)(a) A little cigar is taxed at the same tax rates as a cigarette is taxed under Subsection
161 59-14-204(2).

162 (b)(i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling
163 machine is taxed at the same tax rates as a cigarette is taxed under Subsection
164 59-14-204(2).

165 (ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced
166 from the cigarette rolling machine.

167 (7)(a) Moisture content of a tobacco product is determined at the time of packaging.

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

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

173 (ii) provide a document, to the person described in Subsection (3) to whom the
174 manufacturer distributes the tobacco product, that certifies the moisture content of
175 the tobacco product, as verified by the scientific evidence described in Subsection
176 (7)(b)(i).

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

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

181 (i) shall, for a period of three years after the last day on which the person pays the tax
182 on the tobacco product, keep the document described in Subsection (7)(b)(ii)
183 available for review by the commission, upon demand; and

184 (ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due
185 to the person's good faith reliance on the document described in Subsection
186 (7)(b)(ii).

187 Section 3. Section **59-14-901** is enacted to read:

188 **Part 9. Remote Retail Sales of Cigar and Pipe Tobacco Licensing and Taxation Act**

189 **59-14-901 . Definitions.**

190 As used in this part:

191 (1) "Actual cost" means the actual price paid by a retailer.

192 (2) "Actual cost list" means a list, prepared, maintained, and certified annually by each
193 retailer, of the average of the actual cost of each item by stock-keeping unit of cigars and
194 pipe tobacco over the 12 calendar months before January 1 of the year in which the
195 remote retail sale of a cigar or pipe tobacco occurs.

196 (3) "Age verification system" means a service that:

197 (a) is provided by an independent third party; and

198 (b) compares information available from a commercially available database, or an
199 aggregate of available databases, that government agencies and businesses use
200 regularly to verify the age and identity of the personal information a consumer

provides during the ordering process.

(4)(a) "Remote retail sale of a cigar or pipe tobacco" means the sale of a cigar or pipe tobacco to a consumer if:

(i)(A) the consumer submits the order for the sale by telephone or other method of voice transmission, mail, or the internet or other online service; or

(B) the retailer is not in the physical presence of the consumer when the request for the sale is made; and

(ii)(A) the retailer delivers the cigar or pipe tobacco to the consumer by common carrier, private delivery service, or other method of remote delivery; or

(B) the retailer is not in the physical presence of the consumer when the consumer obtains possession of the cigar or pipe tobacco.

(b) "Remote retail sale of a cigar or pipe tobacco" does not include a sale by:

- (i) a regular dealer of cigars or pipe tobacco in another state to a licensed dealer in this state; or
- (ii) a wholesaler or distributor in this state to a regular dealer of cigars or pipe tobacco in another state.

(5) "Remote seller" means a retailer that obtains a license in accordance with Section 59-14-903 and conducts a remote retail sale of a cigar or pipe tobacco.

Section 4. Section **59-14-902** is enacted to read:

59-14-902 . Authorization for remote retail sale of a cigar or pipe tobacco.

(1) A remote seller may make a remote retail sale of a cigar or pipe tobacco in this state if the remote seller:

(a) complies with the licensing, bonding, and taxation requirements of this part;

(b) subject to Subsection (3), collects and remits the sales and use taxes due under Chapter 12, Sales and Use Tax Act;

(c) reports to the commission, on an annual basis after remote retail sales of cigars or pipe tobacco begin:

- (i) the number of remote retail sales of cigars or pipe tobacco; and
- (ii) the gross sales amount;

(d) collects and remits the tax imposed under this part only if the remote seller meets the economic requirements of Subsection 59-12-107(2);

(e) complies with the age and access requirements for cigars or pipe tobacco described in Section 10-8-47 and Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic Chemical Solvents; and

235 (f) uses an age verification system.

236 (2) A remote seller may not:

237 (a) make a sale, other than face-to-face, of any product containing nicotine or tobacco
238 that is not a cigar or pipe tobacco; or

239 (b) make a sale that would be permitted under Section 59-14-201, 59-14-301, or
240 59-14-803, unless the remote seller obtains a separate license.

241 (3) A remote seller shall obtain a sales and use tax license and collect and remit the
242 applicable sales and use tax in accordance with Chapter 12, Sales and Use Tax Act, if
243 the remote seller meets the requirements of Subsection 59-12-107(2).

244 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
245 commission may make rules to establish a mechanism for a person to report a perceived
246 violation of this section.

247 Section 5. Section **59-14-903** is enacted to read:

248 **59-14-903 . License to make a remote retail sale of a cigar or pipe tobacco.**

249 (1) The commission shall issue a license to make a remote retail sale of a cigar or pipe
250 tobacco to a retailer that submits an application, on a form the commission creates, that
251 includes:

252 (a) the retailer's name;

253 (b) the address of the facility from which the retailer will make a remote retail sale of a
254 cigar or pipe tobacco;

255 (c) the retailer's federal identification number;

256 (d) proof that the retailer uses an age verification system;

257 (e) proof of receipt of a sales tax license, if applicable; and

258 (f) any other information the commission requires to implement this chapter.

259 (2) A license described in Subsection (1) is:

260 (a) valid for three years;

261 (b) valid only for a single facility from which the retailer makes a remote retail sale of a
262 cigar or pipe tobacco; and

263 (c) renewable if a licensee meets the criteria for licensing described in Subsection (1).

264 (3) The license required under this section is separate from a valid license a retailer may
265 hold under Section 59-14-201, 59-14-301, or 59-14-803.

266 (4)(a)(i) Except as provided in Subsection (4)(a)(ii), the commission shall require a
267 remote seller that is responsible under this part for collection of tax on a cigar or
268 pipe tobacco to post a bond.

269 (ii) A remote seller that posts a bond under Section 59-14-301 is not required to post
270 an additional bond under this section.

271 (b) The remote seller may post the bond required by Subsection (4)(a) in combination
272 with any bond required by Section 59-14-201 or 59-14-803.

273 (c) Subject to Subsection (4)(d), the commission shall determine the form and the
274 amount of the bond.

275 (d) The minimum amount of the bond shall be:
276 (i) except as provided in Subsection (4)(d)(ii) or (4)(d)(iii), \$500;
277 (ii) if the remote seller posts the bond required by Subsection (4)(a) in combination
278 with a bond required by either Section 59-14-201 or 59-14-803, \$1,000; or
279 (iii) if the remote seller posts the bond required by Subsection (4)(a) in combination
280 with the bonds required by both Sections 59-14-201 and 59-14-803, \$1,500.

281 (5) In addition to other authorized reasons for the commission to deny or revoke a license
282 or a license renewal under this title, the commission may deny or revoke a license to a
283 retailer who makes or wishes to make remote retail sales of cigars or pipe tobacco if:

284 (a) the retailer violates this title;
285 (b) the retailer does not meet the requirements for licensure;
286 (c) the retailer submits misleading or false information on the retailer's application for
287 licensure; or
288 (d) a retailer has had a license to sell any tobacco or nicotine products revoked by
289 another state.

290 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
291 commission may make rules to establish the additional information described in
292 Subsection (1)(f) that a retailer shall provide in the application.

293 (7) The commission may not charge a fee for a license under this section.

294 Section 6. Section **59-14-904** is enacted to read:

295 **59-14-904 . Taxation of a remote retail sale of a cigar or pipe tobacco.**

296 (1) A tax is imposed on a remote retail sale of a cigar or pipe tobacco.

297 (2)(a) The amount of the tax imposed under this part on a cigar or pipe tobacco is .86
298 multiplied by:
299 (i) the actual cost of the cigar or pipe tobacco; or
300 (ii) if the actual cost is unavailable, the actual cost of the cigar or pipe tobacco as
301 identified in the actual cost list.

302 (b) A remote retail sale of a cigar or pipe tobacco is not subject to the tax imposed under

Section 59-14-302.

303 (3) A remote seller shall collect the tax imposed under Subsection (1) from a consumer at
304 the time of a remote retail sale of a cigar or pipe tobacco.
305 (4) The commission shall deposit the revenue generated by the tax imposed under this
306 section into the General Fund.

308 Section 7. Section **59-14-905** is enacted to read:

309 **59-14-905 . Remittance of tax -- Returns -- Invoice required -- Filing requirement**
310 **-- Exception -- Penalty -- Overpayment.**

311 (1)(a) A remote seller that collects the tax imposed on a cigar or pipe tobacco under this
312 part shall remit to the commission, in an electronic format the commission approves:
313 (i) the tax the remote seller collected in the previous calendar quarter; and
314 (ii) the quarterly tax return.

315 (b) The remote seller shall file the return and remit the taxes collected on or before the
316 last day of April, July, October, and January.

317 (2)(a) A remote seller shall provide the consumer with an itemized invoice showing:
318 (i) the remote seller's name and address;
319 (ii) the name and delivery address of the consumer;
320 (iii) the date of sale;
321 (iv) the final cost and quantity for each item by stock-keeping unit;
322 (v) the tax due under this part;
323 (vi) the itemized sales and use tax, if applicable; and
324 (vii) shipping charges, if stated separately.

325 (b) The remote seller shall retain a copy of each invoice and make the invoice available
326 for inspection at the request of the commission or the commission's agent for a period
327 of three years following the remote retail sale of a cigar or pipe tobacco.
328 (c) The remote seller shall retain purchasing records to verify the actual cost or actual
329 cost list value for each item by stock-keeping unit.

330 (3)(a) A consumer that purchases an untaxed cigar or pipe tobacco for use or other
331 consumption shall:
332 (i) file with the commission, on a form the commission approves, a statement
333 showing the quantity and description of the item subject to tax under this part; and
334 (ii) pay the tax imposed by this part on the item.
335 (b) The consumer shall file the statement described in Subsection (3)(a) and pay the tax
336 due on or before the last day of the month immediately following the month during

which the consumer purchased an untaxed cigar or pipe tobacco.

(c) A consumer shall maintain records necessary to determine the amount of tax the consumer is liable to pay under this part for a period of three years after the day on which the consumer filed the statement required by this section.

(4) A nonresident who imports an untaxed cigar or pipe tobacco into the state does not need to file the statement described in Subsection (3) or pay the tax if the item is for the nonresident's own use or consumption while in this state.

(5) In addition to the tax required by this part, a person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner provided in Section 59-1-402, for a period of four years after the day on which the tax is due if a person subject to this section fails to:

- (a) pay the tax required by this part;
- (b) pay the tax on time; or
- (c) file a return required by this part.

(6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the manner provided in Section 59-1-402.

Section 8. Section **59-14-906** is enacted to read:

59-14-906 . Criminal penalty for making a remote retail sale without a license or

(1) It is unlawful for a person to make a remote retail sale of a cigar or pipe tobacco without:

- (a) obtaining a license from the commission under Section 59-14-903;
- (b) complying with any bonding requirement described in Section 59-14-903; or
- (c) if required by Subsection 59-14-902(1)(d), remitting the tax due under this part.

(2) A violation of Subsection (1) is a class B misdemeanor with a \$5,000 fine.

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

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

(1)(a) As used in this section:

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

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

(ii) "Retailer" means a person who:

(A) sells a tobacco product, an electronic cigarette product, or a nicotine product

371 to an individual for personal consumption; or

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

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

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

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

380 (a) is a retailer; and

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

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

384 (a) a class C misdemeanor on the first offense;

385 (b) a class B misdemeanor on the second offense; or

386 (c) a class A misdemeanor on the third or subsequent offense.

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

388 (a) a mail-order, telephone, or ~~Internet~~ internet sale made in compliance with Section
389 59-14-509 or 59-14-902;

390 (b) a sale from a vending machine or self-service display that is located in an area of a
391 retailer's facility:

392 (i) that is distinct and separate from the rest of the facility; and

393 (ii) where the retailer only allows an individual who is under 21 years old to be
394 present if the individual:

395 (A) is accompanied by the actor's parent or legal guardian; or

396 (B)(I) is present solely for the purpose of providing a service to the business,
397 including making a delivery;

398 (II) is monitored by the proprietor business or an employee of the business; and

399 (III) is not permitted to make any purchase or conduct any commercial
400 transaction other than the service described in Subsection (4)(b)(ii)(B)(II); or

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

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

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

406 **Section 10. Effective Date.**

407 This bill takes effect on January 1, 2027.