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Nicotine Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jen Plumb

House Sponsor:

2

LONG TITLE

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General Description:

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This bill amends provisions related to products that contain nicotine.

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Highlighted Provisions:

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This bill:

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

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

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

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

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

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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This bill provides a special effective date.

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Utah Code Sections Affected:

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AMENDS:

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

19

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

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

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

22

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

23

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

24

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

S.B. 210

31 **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,
33 Chapter 173
34 **76-9-1104 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
35 Chapter 173
36 **76-9-1105 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
37 Chapter 173
38 **76-9-1107 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
39 Chapter 173
40 **76-9-1112 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
41 Chapter 173
42 **76-9-1113 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
43 Chapter 173
44 **76-9-1114 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
45 Chapter 173
46 **76-9-1115 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, Chapter 173
47 **76-9-1116 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
48 Chapter 173

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

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

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

53 [(a) A local health department may examine the books, papers, and records of a
54 retailer in this state, for the purpose of determining compliance with Section
55 59-14-810.]

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

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

63 [(d)] (1)(a) A local health department may conduct regular inspections of a business that
64 sells an electronic cigarette product as that term is defined in Section 76-10-101, in

65 accordance with the provisions of Section 26B-7-516.

66 (b) A local health department shall publish the results of all [examinations] inspections at
67 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
69 59-14-810 is declared to be a contraband good and shall be immediately embargoed
70 by a local health department.

71 [f] (d) An electronic cigarette product described in Subsection [(e)] (1)(c) may be
72 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
75 with jurisdiction over where the product is found.

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

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

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

83 (2)(a) A local health department shall disclose to the attorney general any information
84 received under this section which is requested by the attorney general for purposes of
85 determining compliance with and enforcing the provisions of this section or Section
86 59-14-810.

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

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

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

95 Section 2. Section **59-14-201** is amended to read:

96 **59-14-201 (Effective 01/01/27). License -- Application of part -- Fee -- Bond --**

97 **Exceptions.**

98 (1) It is unlawful for any person in this state to manufacture, import, distribute, barter, sell,

99 exchange, or offer cigarettes for sale without first having obtained a license issued by
100 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
102 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~~
104 ~~a license fee of \$30 or a license renewal fee of \$20, as appropriate]~~ The commission
105 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
107 to expire is ~~[\$30]~~ \$250.

108 (c) ~~[Notwithstanding Subsections (3)(a) and (b), the commission may not charge a fee~~
109 ~~for a license under this section for a retailer, as defined in Section 59-14-102]~~ The
110 commission shall deposit 88% of any fee received under this section to the fund
111 described in Section 59-14-807.

112 (4)(a) A license may not be issued until the applicant files a bond with the commission.
113 The commission shall determine the form and the amount of the bond, the minimum
114 amount of which shall be \$500. The bond shall be executed by the applicant as
115 principal, with a corporate surety, payable to the state and conditioned upon the
116 faithful performance of all the requirements of this chapter, including the payment of
117 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
120 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
123 category of product the person will sell under the license from the following categories:
124 (a) tobacco products;
125 (b) nicotine products; or
126 (c) electronic cigarette products.

127 Section 3. Section **59-14-202** is amended to read:

128 **59-14-202 (Effective 05/06/26). Issuance of licenses -- Common carrier licenses --**
129 **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
131 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
134 location of the business.

135 (3) Applications for a license under this chapter shall be submitted on a form authorized by
136 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
139 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
142 conveyances operated by that carrier within the state. All conveyances owned by a
143 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
146 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
153 Settlement Agreement"; or

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

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

158 (iv) has imported, or caused to be imported into the United States, or manufactured
159 for sale or distribution in the United States any cigarette that does not fully
160 comply with the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. Sec.
161 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
166 licensee, and is nontransferable.

167 (7)(a) Each license is in effect for [three years] one year from the date of issuance,
168 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
170 renews it in accordance with commission rules.
171 (c) The commission shall by rule establish procedures for the renewal and reinstatement
172 of licenses.
173 (d) For any license issued before January 1, 2027, during the 2027 calendar year, the
174 commission shall re-issue the license as a one-year license in the same calendar
175 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,
177 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
181 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;
184 or
185 (b) roll-your-own cigarettes in an individual package or container that contains less than
186 0.6 ounces of tobacco.

187 (10)(a) The commission shall maintain a list that includes the identity of all people
188 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.

192 Section 4. Section **59-14-203** is amended to read:

193 **59-14-203 (Effective 05/06/26). Failure to obtain a license -- Penalty.**

194 (1) Any person engaging in the business of manufacturing, importing, distributing, or
195 selling or offering to sell cigarettes without holding a valid license that is currently not
196 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
198 collected by the commission.

199 Section 5. Section **59-14-301** is amended to read:

200 **59-14-301 (Effective 01/01/27). Registration and licensing -- Fee -- Bond**

201 **exceptions.**

202 (1) All manufacturers and distributors of all tobacco products, as defined in Section
203 59-14-102, who are responsible for the collection of tax on tobacco products under this
204 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,
208 Cigarettes.

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

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

214 (c) The commission shall deposit 88% of any fee received under this section to the fund
215 described in Section 59-14-807.

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
218 commission shall re-issue the license as a one-year license in the same calendar
219 month the license was originally set to expire and charge the associated license fee.

220 (3)(a) The commission shall require any manufacturer, wholesaler, retailer, or any other
221 person subject to this section, and who is responsible for the collection of tax on
222 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
225 minimum amount of which shall be \$1,000.

226 Section 6. Section **59-14-803** is amended to read:

227 **59-14-803 (Effective 01/01/27). License to sell electronic cigarette product or**
228 **nicotine product.**

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

231 (a) except as provided in Subsection (2), obtaining a license from the commission under
232 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

235 person that holds a valid license to sell tobacco products under Section 59-14-301
236 may, without obtaining a separate license in accordance with this section, sell, offer
237 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
239 renewing a license under this section.

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

242 (3) The commission shall issue a license to sell an electronic cigarette product or a nicotine
243 product to a person that submits an application, on a form created by the commission,
244 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
247 a nicotine product; and
- 248 (c) any other information the commission requires to implement this chapter.

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

- 250 [←] (i) valid only at one fixed business address;
- 251 [←] (ii) valid for [three years] one year;
- 252 [←] (iii) valid only for a physical location; and
- 253 [←] (iv) renewable if a licensee meets the criteria for licensing described in
254 Subsection (3).

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

258 (5)(a) The commission shall require a manufacturer, jobber, distributor, wholesaler, or
259 retailer that is responsible under this part for the collection of tax on an electronic
260 cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a
261 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine
262 device to post a bond.

263 (b) The manufacturer, jobber, distributor, wholesaler, or retailer may post the bond
264 required by Subsection (5)(a) in combination with any bond required by Section
265 59-14-201 or 59-14-301.

266 (c) Subject to Subsection (5)(d), the commission shall determine the form and amount of
267 the bond.

268 (d) The minimum amount of the bond shall be:

269 (i) except as provided in Subsection (5)(d)(ii) or (iii), \$500;

270 (ii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond

271 required by Subsection (5)(a) in combination with a bond required by either

272 Section 59-14-201 or 59-14-301, \$1,000; or

273 (iii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond

274 required by Subsection (5)(a) in combination with a bond required by both

275 Sections 59-14-201 and 59-14-301, \$1,500.

276 (6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah

277 Administrative Rulemaking Act, to establish the additional information described in

278 Subsection (3)(c) that a person shall provide in the application described in Subsection

279 (3).

280 (7) It is a class B misdemeanor for a person to violate Subsection (1).

281 (8) A person who violates Subsection (1) is subject to an administrative fine of \$1,000 to be

282 collected by the commission.

283 [~~(8) The commission may not charge a fee for a license under this section.~~]

284 Section 7. Section **59-14-807** is amended to read:

285 **59-14-807 (Effective 01/01/27) (Partially Repealed 07/01/30). Electronic**

286 **Cigarette Substance and Nicotine Product Proceeds Restricted Account.**

287 (1) There is created within the General Fund a restricted account known as the "Electronic

288 Cigarette Substance and Nicotine Product Proceeds Restricted Account."

289 (2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account

290 consists of:

291 (a) revenue allocated and collected from the license fee imposed under Sections

292 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

296 result of any judgment, settlement, or compromise of claims pertaining to alleged

297 violations of law related to the manufacture, marketing, distribution, or sale of

298 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

300 state exceeds \$1,000,000; and

301 (ii) after reimbursement to the attorney general and the Department of Commerce for

302 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 (c), for] For each fiscal year and subject to
305 appropriation by the Legislature, the Division of Finance shall distribute from the [
306 Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account]
307 revenue deposited under Subsections (2)(b) and (2)(d):

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

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

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

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

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

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

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

334 (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds
335 Restricted Account is insufficient to cover the distributions described in Subsection
336 (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
338 (3)(a);
339 (ii) in full or, if insufficient funds are available to satisfy the next distribution in the
340 sequence, in part; and
341 (iii) until the available funds in the Electronic Cigarette Substance and Nicotine
342 Product Proceeds Restricted Account are exhausted.

343 (c) For each fiscal year and subject to appropriation by the Legislature, the Division of
344 Finance shall distribute from the funds deposited under [Section 59-14-810]
345 Subsection (2)(c) into the Electronic Cigarette Substance and Nicotine Product
346 Proceeds Restricted Account:
347 (i) to the commission, in an amount equal to the amount necessary to create and
348 maintain the registry described in Section 59-14-810;
349 (ii) to the Department of Health and Human Services, in an amount necessary for
350 completing duties described in Section 59-14-810; and
351 (iii) to the Department of Health and Human Services, the remainder to be divided
352 among the local health departments for inspection and enforcement described in
353 Sections 26A-1-131 and 59-14-810.

354 (d) For each fiscal year and subject to appropriation by the Legislature, the Division of
355 Finance shall distribute from the funds deposited under Subsection (2)(a) into the
356 Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account to
357 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
360 provide tobacco products, electronic cigarette products, nicotine products, and
361 other illegal controlled substances to minors.

362 (4)(a) The local health departments shall use the money received in accordance with
363 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
368 accordance with Subsection (3)(a)(v) for the Youth Electronic Cigarette, Marijuana,
369 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

371 Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and
372 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
374 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
376 53G-10-407(4)(a)(i);
377 (B) the cost of administering the positive behaviors plan as described in
378 Subsection 53G-10-407(4)(a)(ii); and
379 (C) the cost of implementing an Underage Drinking and Substance Abuse
380 Prevention Program in grade 4 or 5, as described in Subsection
381 53G-10-406(3)(b); or
382 (ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.

383 (5)(a) The fund shall earn interest.

384 (b) All interest earned on fund money shall be deposited into the fund.

385 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette
386 Substance and Nicotine Product Proceeds Restricted Account after the distribution
387 described in Subsection (3) may only be used for:
388 (a) funding commission personnel to enforce compliance with the tax collection
389 requirements of this part; and
390 (b) programs and activities related to the prevention and cessation of electronic cigarette,
391 nicotine products, marijuana, and other drug use.

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

393 **59-14-810 (Effective 05/06/26). Electronic cigarette product registry.**

394 (1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that
395 is sold in this state, whether directly or through a distributor, wholesaler, retailer, or
396 similar intermediary or intermediaries, shall certify under penalty of perjury on a form
397 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
400 cigarette product as defined in Section 76-9-1101 and will not be illegal to be sold in
401 the state as of January 1, 2025.

402 (2) When submitting the certification a manufacturer shall submit a form that separately
403 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,
406 and any flavors contained in the product;

407 (ii)(A) a copy of the order granting a premarket tobacco product application of the
408 electronic cigarette product by the United States Food and Drug
409 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
411 cigarette product or nicotine product was submitted to the United States Food
412 and Drug Administration before September 9, 2020, and a final authorization
413 or order has not yet taken effect;

414 (iii) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added
415 to the registry in the first instance; and
416 (iv) information described in Subsection (10) if applicable.

417 (b) The commission shall make the materials submitted under Subsection (3)(a)
418 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
420 the commission and the Department of Health and Human Services in a manner
421 prescribed by the commission within 30 days of any material change making the
422 certification form no longer accurate, including:
423 (i) the issuance or denial of a marketing authorization or other order by the United
424 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
426 any court that affects the ability of the electronic cigarette product to be
427 introduced or delivered into interstate commerce for commercial distribution in
428 the United States.

429 (d) On or before January 31 of each year and in a manner prescribed by the commission,
430 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
434 that is manufactured by the manufacturer.

435 (e) A manufacturer may amend a certification, including to add additional electronic
436 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

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

(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.

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

(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.

(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.

(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.

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

- (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~~].

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

478 (8)(a) A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic
479 cigarette product in this state that is not included in the registry shall be subject to a
480 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
483 offending product is properly listed on the registry.

484 (b) The commission shall suspend the person's license issued under [Section] Sections
485 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
490 are sold in this state, whether directly or through a distributor, wholesaler, retailer, or
491 similar intermediary or intermediaries, is subject to a civil penalty assessed by the tax
492 commission of:

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

497 (d) A manufacturer that falsely represents any information required by a certification
498 form described in this section shall be guilty of a class C misdemeanor for each false
499 representation.

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

503 (9)(a) To assist in ensuring compliance and enforcement of this section and Section
504 26A-1-131, the commission shall disclose to the following entities, upon request, any
505 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
510 received under this section, or corresponding laws of other states.

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

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

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

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

520 (c)(i) A nonresident manufacturer shall provide notice to the commission 30 days
521 before the termination of the authority of an agent and shall further provide proof
522 to the satisfaction of the commission of the appointment of a new agent no less
523 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
525 notify the commission of the termination within five calendar days and shall
526 include proof to the satisfaction of the commission of the appointment of a new
527 agent.

528 (11) Before May 31 of each year, the commission and the Department of Health and
529 Human Services shall provide a report to the Revenue and Taxation Interim Committee
530 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
536 enforcement of this section and Section 26A-1-131.

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

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

541 **76-9-1103 (Effective 05/06/26). Permitting a minor to use a tobacco product,**
542 **electronic cigarette product, or nicotine product in a place of business.**

543 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
544 (2) An actor commits permitting a minor to use a tobacco product, electronic cigarette
545 product, or nicotine product in a place of business if the actor:
546 (a) is a proprietor of a place of business; and
547 (b) knowingly permits an individual under 21 years old to frequent the actor's place of
548 business while the individual is using a tobacco product, an electronic cigarette
549 product, or a nicotine product.
550 (3) A violation of Subsection (2) is a class [C] B misdemeanor.

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

552 **76-9-1104 (Effective 05/06/26). Providing a cigar, a cigarette, an electronic**
553 **cigarette product, a nicotine product, or tobacco to a minor.**

554 (1)(a) As used in this section, "provides":
555 (i) includes selling, giving, furnishing, sending, or causing to be sent; and
556 (ii) does not include the acts:
557 (A) of the United States Postal Service or other common carrier when engaged in
558 the business of transporting and delivering packages for others; or
559 (B) of a person, whether compensated or not, who transports or delivers a package
560 for another person without any reason to know of the package's content.
561 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
562 (2) Except as provided in Subsection (4), an actor commits providing a cigar, cigarette,
563 electronic cigarette product, nicotine product, or tobacco to a minor if the actor
564 knowingly, intentionally, recklessly, or with criminal negligence provides a tobacco
565 product, an electronic cigarette product, or a nicotine product to an individual who is
566 under 21 years old.
567 (3) A violation of Subsection (2) is:
568 (a) a class [C] B misdemeanor on the first offense; or
569 (b) a class [B] A misdemeanor on [the second offense; or] a subsequent offense.
570 [~~(c) a class A misdemeanor on the third or subsequent offense.~~]
571 (4) This section does not apply to conduct of an employee of a tobacco retailer that is a
572 violation of Section 76-9-1116.
573 Section 11. Section **76-9-1105** is amended to read:
574 **76-9-1105 (Effective 05/06/26). Providing tobacco paraphernalia to a minor.**

575 (1)(a) As used in this section, "provides" means the same as that term is defined in
576 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,
579 intentionally, recklessly, or with criminal negligence provide tobacco paraphernalia to
580 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 (Effective 05/06/26). Illegal indirect sale of a tobacco product, an**
586 **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
589 individual and a retailer or retailer's employee.

590 (B) "Face-to-face exchange" does not include a sale through a vending machine or
591 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
594 to an individual for personal consumption; or

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

597 (iii) "Self-service display" means a display of a tobacco product, an electronic
598 cigarette product, or a nicotine product to which the public has access without the
599 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 (2) Except as provided in Subsection (4), an actor commits illegal indirect sale of a tobacco
602 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
605 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 [((e) 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
612 59-14-509;

613 (b) a sale from a vending machine or self-service display that is located in an area of a
614 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
617 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,
620 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
623 transaction other than the service described in Subsection [(4)(b)(ii)(B)(II)]
624 (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
627 area described in Subsection (4)(b)(ii)(A) may not allow the individual to purchase a
628 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 (Effective 05/06/26). Illegal provision of smokeless tobacco or
632 electronic cigarette product -- Exceptions.**

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

634 (2) Except as provided in Subsection (4), an actor commits illegal provision of smokeless
635 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
638 electronic cigarette product in this state;

639 (ii) sells, offers for sale, or furnishes an electronic cigarette product at less than the
640 cost, including the amount of any applicable tax, of the product to the
641 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.

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

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

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

(4)(a) The price that a manufacturer, wholesaler, or retailer may charge under

Subsection (2)(b)(ii) does not include a discount for:

(i) a physical manufacturer coupon:

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

(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

(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.

(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.

(5) The Legislature finds that:

(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;

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

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

(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.

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

76-9-1113 (Effective 05/06/26). Illegal distribution of a tobacco product --

Exceptions.

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

(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
683 convention where the general public is excluded.
684 (b) The prohibition described in Subsection (2) does not apply to a tobacco retailer, a
685 manufacturer, or a distributor that gives a tobacco product to an individual who is 21
686 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 (Effective 05/06/26). Illegal distribution of a flavored electronic**
689 **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
692 actor gives, distributes, sells, offers for sale, or furnishes to any person a flavored
693 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 (Effective 05/06/26). Illegal distribution of an electronic cigarette**
699 **product without federal authorization.**

700 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
701 (2) An actor commits illegal distribution of an electronic cigarette product without federal
702 authorization if the actor gives, distributes, sells, offers for sale, or furnishes to any
703 person an electronic cigarette product that is not a premarket authorized or pending
704 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.

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

709 **76-9-1116 (Effective 05/06/26). Unlawful sale of a tobacco product, electronic**
710 **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
713 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
717 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
720 product, or a nicotine product in the course of business to an individual younger than
721 21 years old.

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

723 [(a) ~~on a first violation:~~]

724 [(i) ~~an infraction; and~~]

725 [(ii) ~~subject to:~~]

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

727 [(B) ~~compensatory service; or~~]

728 [(b) ~~on a subsequent violation:~~]

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

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

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

732 [(B) ~~compensatory service.~~]

733 Section 18. **Effective Date.**

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

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

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

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

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

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