

**Effective 7/1/2018**

**Part 2  
Permit Requirements**

**26-62-201 Permitting requirement.**

- (1)
  - (a) A tobacco retailer shall hold a valid tobacco retail permit issued in accordance with this chapter by the local health department with jurisdiction over the physical location where the tobacco retailer operates.
  - (b) A tobacco retailer without a valid permit may not:
    - (i) place a tobacco product, an electronic cigarette product, or a nicotine product in public view;
    - (ii) display any advertisement related to a tobacco product, an electronic cigarette product, or a nicotine product that promotes the sale, distribution, or use of those products; or
    - (iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco, a tobacco product, an electronic cigarette product, or a nicotine product.
- (2) A local health department may issue a permit under this chapter for a tobacco retailer in the classification of:
  - (a) a general tobacco retailer; or
  - (b) a retail tobacco specialty business.
- (3) A permit under this chapter is:
  - (a) valid only for one physical location, including a vending machine;
  - (b) valid only at one fixed business address; and
  - (c) if multiple tobacco retailers are at the same address, separately required for each tobacco retailer.

Amended by Chapter 347, 2020 General Session

**26-62-202 Permit application.**

- (1) A local health department shall issue a permit under this chapter for a tobacco retailer if the local health department determines that the applicant:
  - (a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and
  - (b) meets all requirements for a permit under this chapter.
- (2) An applicant for a permit shall:
  - (a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and
  - (b) pay all applicable fees described in Section 26-62-203.
- (3) The application for a permit shall include:
  - (a) the name, address, and telephone number of each proprietor;
  - (b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;
  - (c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;
  - (d) evidence that the location for which a permit is sought has a valid tax commission license;
  - (e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:

- (i) a provision of this chapter;
  - (ii) Chapter 38, Utah Indoor Clean Air Act;
  - (iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;
  - (iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
  - (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or
  - (vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product; and
- (f) the dates of all violations disclosed under this Subsection (3).
- (4)
- (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:
    - (i) 1,000 feet of a community location;
    - (ii) 600 feet of another retail tobacco specialty business; or
    - (iii) 600 feet of property used or zoned for agricultural or residential use.
  - (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.
- (5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (4) if the retail tobacco specialty business meets the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).
- (6)
- (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this chapter.
  - (b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

Amended by Chapter 18, 2020 Special Session 6

**26-62-203 Permit term and fees.**

- (1)
- (a) The term of a permit issued under this chapter to a retail tobacco specialty business is one year.
  - (b) The term of a permit issued under this chapter to a general tobacco retailer is two years.
- (2)
- (a) A local health department may not issue a permit under this chapter until the applicant has paid a permit fee to the local health department of:
    - (i) \$30 for a new permit;
    - (ii) \$20 for a permit renewal; or
    - (iii) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to expire.
  - (b) A local health department that collects fees under Subsection (2)(a) shall use the fees to administer the permit requirements under this chapter.
  - (c) In addition to the fee described in Subsection (2)(a), a local health department may establish and collect a fee to perform a plan review for a retail tobacco specialty business permit.

- (3) A permit holder may apply for a renewal of a permit no earlier than 30 days before the day on which the permit expires.
- (4) A tobacco retailer that fails to renew a permit before the permit expires may apply to reinstate the permit by submitting to the local health department:
  - (a) the information required in Subsection 26-62-202(3) and, if applicable, Subsection 26-62-202(4);
  - (b) the fee for the reinstatement of a permit; and
  - (c) a signed affidavit affirming that the tobacco retailer has not violated the prohibitions in Subsection 26-62-201(1)(b) after the permit expired.

Enacted by Chapter 231, 2018 General Session

**26-62-204 Permit nontransferable.**

- (1) A permit is nontransferable.
- (2) If the information described in Subsection 26-62-202(3) changes, a tobacco retailer:
  - (a) may not renew the permit; and
  - (b) shall apply for a new permit no later than 15 days after the information in Subsection 26-62-202(3) changes.

Enacted by Chapter 231, 2018 General Session

**26-62-205 Permit requirements for a retail tobacco specialty business.**

- (1) A retail tobacco specialty business shall:
  - (a) electronically verify proof of age for any individual that enters the premises of the business in accordance with Part 4, Proof of Age Requirements;
  - (b) except as provided in Subsection 76-10-105.1(4), prohibit any individual from entering the business if the individual is under 21 years old; and
  - (c) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates:
    - (i) the prohibition on the presence of an individual under 21 years old in a retail tobacco specialty business in Subsection 76-10-105.1(4); and
    - (ii) the prohibition on the sale of tobacco products and electronic cigarette products to an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1, and 76-10-114.
- (2) A retail tobacco specialty business may not:
  - (a) employ an individual under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product; or
  - (b) permit an employee under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product.

Amended by Chapter 348, 2021 General Session

**26-62-206 Requirements for the sale of tobacco product, electronic cigarette product, or nicotine product.**

- (1) A tobacco retailer shall:
  - (a) provide the customer with an itemized receipt for each sale of a tobacco product, an electronic cigarette product, or a nicotine product that separately identifies:
    - (i) the name of the tobacco product, the electronic cigarette product, or the nicotine product;

- (ii) the amount charged for each tobacco product, electronic cigarette product, or nicotine product; and
- (iii) the date and time of the sale; and
- (b) maintain an itemized transaction log for each sale of a tobacco product, an electronic cigarette product, or a nicotine product that separately identifies:
  - (i) the name of the tobacco product, the electronic cigarette product, or the nicotine product;
  - (ii) the amount charged for each tobacco product, electronic cigarette product, or nicotine product; and
  - (iii) the date and time of the sale.
- (2) The itemized transaction log described in Subsection (1)(b) shall be:
  - (a) maintained for at least one year after the date of each transaction in the itemized transaction log;
  - (b) made available to an enforcing agency or a peace officer at the request of the enforcing agency or the peace officer; and
  - (c) in addition to any documentation required under Section 59-1-1406 and Subsection 59-14-805(2).

Enacted by Chapter 347, 2020 General Session

**26-62-207 Permit requirements for the sale of tobacco products and electronic cigarette products.**

- (1) A tobacco retailer shall:
  - (a) provide the customer with an itemized receipt for each sale of a tobacco product or an electronic cigarette product that separately identifies:
    - (i) the name of the tobacco product or the electronic cigarette product;
    - (ii) the amount charged for each tobacco product or electronic cigarette product; and
    - (iii) the time and date of the sale; and
  - (b) maintain an itemized transaction log for each sale of a tobacco product or an electronic cigarette product that separately identifies:
    - (i) the name of the tobacco product or the electronic cigarette product;
    - (ii) the amount charged for each tobacco product or electronic cigarette product; and
    - (iii) the date and time of the sale.
- (2) The itemized transaction log described in Subsection (1)(b) shall be:
  - (a) maintained for at least one year after the date of each transaction in the itemized transaction log; and
  - (b) made available to an enforcing agency or a peace officer at the request of the enforcing agency or the peace officer that is no less restrictive than the provisions in this part.

Enacted by Chapter 302, 2020 General Session