Effective 5/3/2023

Part 5
Regulation of Smoking, Tobacco Products, and Nicotine Products

26B-7-501 Definitions.

As used in this part:

(1) "Community location" means the same as that term is defined:
  (a) as it relates to a municipality, in Section 10-8-41.6; and
  (b) as it relates to a county, in Section 17-78-1004.
(2) "Electronic cigarette" means the same as that term is defined in Section 76-9-1101.
(3) "Electronic cigarette product" means the same as that term is defined in Section 76-9-1101.
(4) "Electronic cigarette substance" means the same as that term is defined in Section 76-9-1101.
(5) "Employee" means an employee of a tobacco retailer.
(6) "Enforcing agency" means the department, or any local health department enforcing the provisions of this part.
(7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.
(8) "Local health department" means the same as that term is defined in Section 26A-1-102.
(9) "Manufacture" includes:
  (a) to cast, construct, or make electronic cigarettes; or
  (b) to blend, make, process, or prepare an electronic cigarette substance.
(10) "Manufacturer sealed electronic cigarette product" means:
  (a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not intend for a consumer to open or refill; or
  (b) a prefilled electronic cigarette as that term is defined in Section 76-9-1101.
(11) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:
  (a) is prefilled by the electronic cigarette substance manufacturer; and
  (b) the electronic cigarette manufacturer does not intend for a consumer to open.
(12) "Nicotine" means the same as that term is defined in Section 76-9-1101.
(13) "Nicotine product" means the same as that term is defined in Section 76-9-1101.
(14) "Non-nicotine inhalation product" means the same as that term is defined in Section 76-9-1101.
(15) "Non-nicotine inhalation substance" means the same as that term is defined in Section 76-9-1101.
(16) "Non-tobacco shisha" means any product that:
  (a) does not contain tobacco or nicotine; and
  (b) is smoked or intended to be smoked in a hookah or water pipe.
(17) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this part.
(18) "Permit" means a tobacco retail permit issued under Section 26B-7-507.
(19) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:
  (a) buildings, offices, shops, elevators, or restrooms;
  (b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;
(d) taverns as defined in Section 32B-1-102, or cabarets;
(e) shopping malls, retail stores, grocery stores, or arcades;
(f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;
(g) barber shops, hair salons, or laundromats;
(h) sports or fitness facilities;
(i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;
(j)
(i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and
(ii) any child care, other than child care as defined in Section 26B-2-401, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;
(k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;
(l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or the members' guests or families;
(m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;
(n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;
(o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and
(p) a holder of a bar establishment license, as defined in Section 32B-1-102.
(20)
(a) "Proof of age" means:
(i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;
(ii) a valid identification that:
(A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;
(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
(C) includes date of birth; and
(D) has a picture affixed;
(iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;
(iv) a valid United States military identification card that:
(A) includes date of birth; and
(B) has a picture affixed;
(v) a valid passport; or
(vi) a state-endorsed digital identity issued under Title 63A, Chapter 20, State-Endorsed Digital Identity.

(b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section 53-3-207.
(21) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.
(22) "Retail tobacco specialty business" means the same as that term is defined:
(a) as it relates to a municipality, in Section 10-8-41.6; and
(b) as it relates to a county, in Section 17-78-1004.
(23) "Shisha" means any product that:
(a) contains tobacco or nicotine; and
(b) is smoked or intended to be smoked in a hookah or water pipe.
(24) "Smoking" means:
(a) the possession of any lighted or heated tobacco product in any form;
(b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:
(i) tobacco or any plant product intended for inhalation;
(ii) shisha or non-tobacco shisha;
(iii) nicotine;
(iv) a natural or synthetic tobacco substitute; or
(v) a natural or synthetic flavored tobacco product;
(c) using an electronic cigarette; or
(d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.
(25) "Tax commission license" means a license issued by the State Tax Commission under:
(a) Section 59-14-201 to sell a cigarette at retail;
(b) Section 59-14-301 to sell a tobacco product at retail; or
(c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.
(26) "Tobacco product" means:
(a) a tobacco product as defined in Section 76-9-1101; or
(b) tobacco paraphernalia as defined in Section 76-9-1101.
(27) "Tobacco retailer" means a person that is required to obtain a tax commission license.

Amended by Chapter 308, 2026 General Session

26B-7-502 Statutes on smoking considered public health laws.

Section 26B-7-503 is a public health law and shall be enforced by the department and local health departments.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-503 Utah Indoor Clean Air Act -- Restriction on smoking in public places and in specified places -- Exceptions -- Enforcement -- Penalties -- Local ordinances.

(1) Except as provided in Subsections (2) and (3), smoking is prohibited in all enclosed indoor places of public access and publicly owned buildings and offices.
(2) Subsection (1) does not apply to:
(a) areas not commonly open to the public of owner-operated businesses having no employees other than the owner-operator;

(b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas of these facilities, including dining areas and lobby areas; and

(c) separate enclosed smoking areas:

(i) located in the passenger terminals of an international airport located in the city of the first class;

(ii) vented directly to the outdoors; and

(iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

(3)

(a) A person is exempt from the restrictions of Subsection (1) if the person:

(i) is a member of an American Indian tribe whose members are recognized as eligible for the special programs and services provided by the United States to American Indians who are members of those tribes;

(ii) is an American Indian who actively practices an American Indian religion, the origin and interpretation of which is from a traditional American Indian culture;

(iii) is smoking tobacco using the traditional pipe of an American Indian tribal religious ceremony, of which tribe the person is a member, and is smoking the pipe as part of that ceremony; and

(iv) the ceremony is conducted by a pipe carrier, Indian spiritual person, or medicine person recognized by the tribe of which the person is a member and the Indian community.

(b) This Subsection (3) takes precedence over Subsection (1).

(c) A religious ceremony using a traditional pipe under this section is subject to any applicable state or local law, except as provided in this section.

(4)

(a) An owner or the agent or employee of the owner of a place where smoking is prohibited under Subsection (1) who observes a person smoking in apparent violation of this section shall request the person to stop smoking.

(b) If the person fails to comply, the proprietor or the agent or employee of the proprietor shall ask the person to leave the premises.

(5)

(a) A first violation of Subsection (1) is subject to a civil penalty of not more than $100.

(b) Any second or subsequent violation of Subsection (1) is subject to a civil penalty of not less than $100 and not more than $500.

(6)

(a) The department and local health departments shall:

(i) enforce this section and shall coordinate their efforts to promote the most effective enforcement of this section; and

(ii) impose the penalties under Subsection (5) in accordance with this Subsection (6).

(b) When enforcing this section, the department and the local health departments shall notify persons of alleged violations of this part, conduct hearings, and impose penalties in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(c) The department shall adopt rules necessary and reasonable to implement the provisions of this section.

(7) Civil penalties collected under this section by:

(a) a local health department shall be paid to the treasurer of the county in which the violation was committed; and

(b) the department shall be deposited into the General Fund.

(8)
(a) This section supersedes any ordinance enacted by the governing body of a political subdivision that restricts smoking in a place of public access as defined in Section 26B-7-501 and that is not essentially identical to the provisions of this section.
(b) This Subsection (8) does not supersede an ordinance enacted by the governing body of a political subdivision that restricts smoking in outdoor places of public access which are owned or operated by:
(i) a political subdivision as defined in Section 17B-1-102;
(ii) a state institution of higher education; or
(iii) a state institution of public education.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-504 Gathering of information related to cigarettes and tobacco products.
(1) The department shall obtain annually publicly available information regarding cigarettes and tobacco products from other states and sources concerning:
(a) the presence of the following substances in detectable levels in a burned state and, if the cigarette or tobacco product is typically burned when consumed, in a burned state:
(i) ammonia or ammonia compounds;
(ii) arsenic;
(iii) cadmium;
(iv) formaldehyde; and
(v) lead; and
(b) a nicotine yield rating for the cigarette or tobacco product for which a rating has been developed.
(2) Information obtained by the department under Subsection (1) is a public record and may be disclosed in accordance with Section 63G-2-201 and disseminated generally by the department.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-505 Electronic cigarette products -- Labeling -- Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.
(1) The department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance regarding:
(a) labeling;
(b) nicotine content;
(c) packaging; and
(d) product quality.
(2) On or before January 1, 2021, the department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell a manufacturer sealed electronic cigarette product regarding:
(a) labeling;
(b) nicotine content;
(c) packaging; and

(d) product quality.

(3)

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

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

(c) Notwithstanding Subsections (3)(a) and (3)(b), beginning on January 1, 2025, a person may not sell an electronic cigarette product that is not on the electronic cigarette product registry created in Section 59-14-810.

(4)

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

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

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

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

(6)

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

(i)

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

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

(ii) contains nicotine.

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

"This product contains nicotine."

Amended by Chapter 308, 2026 General Session

26B-7-506 Regulation of tobacco retailers.

The regulation of a tobacco retailer is an exercise of the police powers of the state, and through delegation, to other governmental entities.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-507 Permitting requirement.

(1)

(a) A tobacco retailer shall hold a valid tobacco retail permit issued in accordance with this part 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 part 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 part 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.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-508 Permit application.
(1) A local health department shall issue a permit 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 part.
(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 26B-7-509.
(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 part;
(ii) Section 26B-7-503;
(iii) Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic Chemical Solvents;
(iv) Title 76, Chapter 17, Part 4, Offenses Concerning Patterns of Unlawful Activity;
(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 Section 17-78-1004.
(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 part.
(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 145, 2026 General Session

26B-7-509 Permit term and fees.
(1)
(a) The term of a permit issued to a retail tobacco specialty business is one year.
(b) The term of a permit issued to a general tobacco retailer is two years.
(2)
(a) A local health department may not issue a permit 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 described in Sections 26B-7-506 through 26B-7-521.
(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 26B-7-508(3) and, if applicable, Subsection 26B-7-508(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 26B-7-507(1)(b) after the permit expired.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-510 Permit nontransferable.

(1) A permit is nontransferable.

(2) If the information described in Subsection 26B-7-508(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 26B-7-508(3) changes.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-511 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 Section 26B-7-521;

(b) except as provided in Section 76-9-1108, 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 Section 76-9-1108; 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 76-9-1104, 76-9-1105, 76-9-1108, and 76-9-1116.

(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 173, 2025 General Session

26B-7-512 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).

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-513 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.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-514 Permit violation.

A person is in violation of the permit issued under this part if the person violates:
(1) a provision of this part;
(2) a provision of licensing laws under Section 10-8-41.6 or Section 17-78-1004;
(3) a provision of Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic Chemical Solvents;
(4) a provision of Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;
(5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
(6) 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.

Amended by Chapter 145, 2026 General Session

26B-7-515 Enforcement by state and local health departments.

The department and local health departments shall enforce Sections 26B-7-506 through 26B-7-521 under the procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative proceeding, including:
(1) notifying a tobacco retailer of alleged violations;
(2) conducting hearings;

(3) determining violations; and
(4) imposing civil administrative penalties.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-516 Inspection of retail tobacco businesses.

The department or a local health department may inspect a tobacco retailer to determine whether the tobacco retailer:
(1) continues to meet the qualifications for the permit issued under this part;
(2) if applicable, continues to meet the requirements for a retail tobacco specialty business license issued under Section 10-8-41.6 or Section 17-78-1004;
(3) engaged in a pattern of unlawful activity under Title 76, Chapter 17, Part 4, Offenses Concerning Patterns of Unlawful Activity;
(4) violated any of the regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
(5) has violated any other provision of state law or local ordinance.

Amended by Chapter 145, 2026 General Session

26B-7-517 Hearing -- Evidence of criminal conviction.

(1) At a civil hearing conducted under Section 26B-7-515, evidence of the final criminal conviction of a tobacco retailer for violation of Section 76-9-1116 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this part for sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old is prima facie evidence of a violation of this part.
(2) If the tobacco retailer is convicted of violating Section 76-9-1116, the enforcing agency:
  (a) shall assess an additional monetary penalty under this part for the same offense for which the conviction was obtained; and
  (b) shall revoke or suspend a permit in accordance with Section 26B-7-518.

Amended by Chapter 173, 2025 General Session

26B-7-518 Penalties.

(1)
  (a) If an enforcing agency determines that a person has violated the terms of a permit issued under this part, the enforcing agency may impose the penalties described in this section.
  (b) If multiple violations are found in a single inspection by an enforcing agency or a single investigation by a law enforcement agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as one single violation under Subsections (2), (3), and (4).
(2) Except as provided in Subsections (3) and (4), if a violation is found in an investigation by a law enforcement agency under Section 77-39-101 or an inspection by an enforcing agency, the enforcing agency shall:
  (a) on a first violation at a retail location, impose a penalty of $1,000;
  (b) on a second violation at the same retail location that occurs within one year of a previous violation, impose a penalty of $1,500;
  (c) on a third violation at the same retail location that occurs within two years after two previous violations, impose:

(i) a suspension of the permit for 30 consecutive business days within 60 days after the day on which the third violation occurs; or
(ii) a penalty of $2,000; and
(d) on a fourth or subsequent violation within two years of three previous violations:
(i) impose a penalty of $2,000;
(ii) revoke a permit of the retailer; and
(iii) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-78-1004 be suspended or revoked.

(3) If a violation is found in an investigation of a general tobacco retailer by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old and the violation is committed by the owner of the general tobacco retailer, the enforcing agency shall:
(a) on a first violation, impose a fine of $2,000 on the general tobacco retailer; and
(b) on the second violation for the same general tobacco retailer within one year of the first violation:
(i) impose a fine of $5,000; and
(ii) revoke the permit for the general tobacco retailer.

(4) If a violation is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old, the enforcing agency shall:
(a) on the first violation:
(i) impose a fine of $5,000; and
(ii) immediately suspend the permit for 30 consecutive days; and
(b) on the second violation at the same retail location within two years of the first violation:
(i) impose a fine of $10,000; and
(ii) revoke the permit for the retail tobacco specialty business.

(5)
(a) Except when a transfer described in Subsection (6) occurs, a local health department may not issue a permit to:
(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3); or
(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (2), (3), or (4).
(b) A person whose permit:
(i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and
(ii) is revoked under this section may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.

(6) Violations of this part, Section 10-8-41.6, or Section 17-78-1004 that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:
(a) the tobacco retailer is transferred to a new proprietor; and
(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

Amended by Chapter 145, 2026 General Session

26B-7-519 Recognition of tobacco retailer training program.

(1) In determining the amount of the monetary penalty to be imposed for a violation of this part, a hearing officer shall reduce the civil penalty by at least 50% if the hearing officer determines that:
  (a) the tobacco retailer has implemented a documented employee training program; and
  (b) the employees have completed that training program within 30 days after the day on which each employee commences the duties of selling a tobacco product, an electronic cigarette product, or a nicotine product.
(2)
  (a) For the first offense at a location, if the hearing officer determines under Subsection (1) that the tobacco retailer has not implemented a documented training program with a written curriculum for employees at that location regarding compliance with this chapter, the hearing officer may suspend all or a portion of the penalty if:
    (i) the tobacco retailer agrees to initiate a training program for employees at that location; and
    (ii) the training program begins within 30 days after the hearing officer makes a determination under this Subsection (2)(a).
  (b) If the hearing officer determines at a subsequent hearing that the tobacco retailer has not implemented the training program within the time period required under Subsection (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty, unless the tobacco retailer demonstrates good cause for an extension of time for implementation of the training program.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-520 Allocation of civil penalties.

Civil monetary penalties collected under Section 26B-7-518 shall be allocated as follows:
(1) if a local health department conducts an adjudicative proceeding under Section 26B-7-515, the penalty shall be paid to the treasurer of the county in which the violation was committed, and transferred to the local health department; and
(2) if the department conducts a civil hearing under Section 26B-7-515, the penalty shall be deposited in the state's General Fund, and may be appropriated by the Legislature to the department for use in enforcement of this part.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-7-521 Verification of proof of age.

(1) As used in this section:
  (a) "Employee" means an employee of a retail tobacco specialty business.
  (b) "Electronic verification program" means a technology used by a retail tobacco specialty business to confirm proof of age for an individual.
(2) A retail tobacco specialty business shall require that an employee verify proof of age as provided in this section.
(3) To comply with Subsection (2), an employee shall:
  (a) request the individual present proof of age; and
  (b) verify the validity of the proof of age electronically in accordance with Subsection (4).
(4) A retail tobacco specialty business shall use an electronic verification program to assist the business in complying with the requirements of this section.

(5)
(a) A retail tobacco specialty business may not disclose information obtained under this section except as provided under this part.
(b) Information obtained under this section:
(i) shall be kept for at least 180 days; and
(ii) is subject to inspection upon request by a peace officer or the representative of an enforcing agency.
(6)
(a) If an employee does not verify proof of age under this section, the employee may not permit an individual to:
(i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or
(ii) purchase a tobacco product or an electronic cigarette product.
(b) In accordance with Section 76-9-1108, an individual who is under 21 years old may be permitted to enter a retail tobacco specialty business if the individual is:
(i) accompanied by a parent or legal guardian who provides proof of age; or
(ii)
(A) present at the retail tobacco specialty business solely for the purpose of providing a commercial service to the retail tobacco specialty business, including making a commercial delivery;
(B) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and
(C) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (6)(b)(ii)(A).
(7) To determine whether the individual described in Subsection (2) is 21 years old or older, the following may request an individual described in Subsection (2) to present proof of age:
(a) an employee;
(b) a peace officer; or
(c) a representative of an enforcing agency.

Amended by Chapter 173, 2025 General Session

26B-7-522 Tobacco and nicotine cessation services for minors.
(1) As used in this section:
(a) "Minor" means an individual who is younger than 18 years old.
(b) "Tobacco and nicotine cessation services" means a program that:
(i) is specifically designed for minors who use tobacco products, electronic cigarette products, or nicotine products;
(ii) is operated by the department, a local health department, or a contractor that is approved by the department or a local health department;
(iii) provides general information about the services offered by the department, the local health department, or a contractor that is approved by the department or the local health department before the minor's registration and participation in the program;
(iv) provides the minor with access to any of the following:
(A) assessment;
(B) web-based resources; or
(C) coaching through technology-based communication tools; and
(v) does not provide:
(A) any form of nicotine replacement therapy; or

(B) any other service not described in Subsection (1)(b)(iii) or (iv).

(2) Consent to tobacco and nicotine cessation services executed by a minor who is or professes to be afflicted with nicotine dependence shall have the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as consent given by an individual of full legal age and capacity.

(3) A person providing tobacco and nicotine cessation services shall actively encourage a minor to inform the minor's parent or guardian for support.

(4) Nothing in this section authorizes a violation of Section 53E-9-203.

Enacted by Chapter 278, 2024 General Session

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

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

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

(a) notifying a retailer of alleged violations;

(b) conducting hearings;

(c) determining violations; and

(d) imposing civil administrative penalties.

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

(a) on a first violation, impose a penalty of $1,500;

(b) on a second violation, impose a penalty of $5,000; and

(c)

(i) on a third violation, impose a penalty of $6,000; and

(ii) revoke the permit of the retailer.

(4)

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

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

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

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

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

(a) the retailer is transferred to a new proprietor; and

(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

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

Enacted by Chapter 308, 2026 General Session