

Effective 5/3/2023

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 17-50-333.
- (2) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.
- (3) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- (4) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.
- (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 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.
- (11) "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 76-10-101.
- (12) "Nicotine" means the same as that term is defined in Section 76-10-101.
- (13) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- (14) "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.
- (15) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this part.
- (16) "Permit" means a tobacco retail permit issued under Section 26B-7-507.
- (17) "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.
- (18)
- (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; or
 - (v) a valid passport.
 - (b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section 53-3-207.
- (19) "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.
- (20) "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 17-50-333.
- (21) "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.
- (22) "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.
- (23) "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.
- (24) "Tobacco product" means:
- (a) a tobacco product as defined in Section 76-10-101; or
 - (b) tobacco paraphernalia as defined in Section 76-10-101.
- (25) "Tobacco retailer" means a person that is required to obtain a tax commission license.

Renumbered and Amended by Chapter 308, 2023 General Session