Effective 7/1/2020

Part 8
Electronic Cigarette and Nicotine Product Licensing and Taxation Act

59-14-802 Definitions.

As used in this part:

(1) "Licensee" means a person that holds a valid license to sell an electronic cigarette product or a nicotine product.

(2)

(a) "Manufacturer's sales price" means the amount that the manufacturer of an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device charges after subtracting a discount.

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

(i) whether the electronic cigarette substance, prefilled electronic cigarette, alternative nicotine product, nontherapeutic nicotine device substance, or prefilled nontherapeutic nicotine device is shipped f.o.b. origin or f.o.b. destination; or

(ii) who pays the original Utah destination freight charge.

(3) "Non-nicotine inhalation product" means the same as that term is defined in Section 76-9-1101.

(4) "Non-nicotine inhalation substance" means the same as that term is defined in Section 76-9-1101.

(5) "Premarket authorized or pending electronic cigarette product" means the same as that term is defined in Section 76-9-1101.

Amended by Chapter 308, 2026 General Session

Superseded 1/1/2027

59-14-803 License to sell electronic cigarette product or nicotine product.

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

(a) except as provided in Subsection (2), obtaining a license from the commission under this section to sell an electronic cigarette product or a nicotine product; and

(b) complying with any bonding requirement described in Subsection (5).

(2) A person that holds a valid license to sell cigarettes under Section 59-14-201 or a person that holds a valid license to sell tobacco products under Section 59-14-301 may, without obtaining a separate license in accordance with this section, sell, offer to sell, or distribute an electronic cigarette product or a nicotine product in this state.

(3) The commission shall issue a license to sell an electronic cigarette product or a nicotine product to a person that submits an application, on a form created by the commission, that includes:

(a) the person's name;

(b) the address of the facility where the person will sell an electronic cigarette product or a nicotine product; and

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

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

(a) valid only at one fixed business address;

(b) valid for three years;
(c) valid only for a physical location; and
(d) renewable if a licensee meets the criteria for licensing described in Subsection (3).
(5)
(a) The commission shall require a manufacturer, jobber, distributor, wholesaler, or retailer that is responsible under this part for the collection of tax on an electronic cigarette product, an alternative nicotine product, or a nontherapeutic nicotine product to post a bond.
(b) The manufacturer, jobber, distributor, wholesaler, or retailer may post the bond required by Subsection (5)(a) in combination with any bond required by Section 59-14-201 or 59-14-301.
(c) Subject to Subsection (5)(d), the commission shall determine the form and amount of the bond.
(d) The minimum amount of the bond shall be:
(i) except as provided in Subsection (5)(d)(ii) or (iii), $500;
(ii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond required by Subsection (5)(a) in combination with a bond required by either Section 59-14-201 or 59-14-301, $1,000; or
(iii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond required by Subsection (5)(a) in combination with a bond required by both Sections 59-14-201 and 59-14-301, $1,500.
(6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the additional information described in Subsection (3)(c) that a person shall provide in the application described in Subsection (3).
(7) It is a class B misdemeanor for a person to violate Subsection (1).
(8) The commission may not charge a fee for a license under this section.

Amended by Chapter 308, 2026 General Session

Effective 1/1/2027
59-14-803 License to sell electronic cigarette product or nicotine product.
(1) A person may not sell, offer to sell, or distribute an electronic cigarette product or a nicotine product in this state without first:
(a) except as provided in Subsection (2), obtaining a license from the commission under this section to sell an electronic cigarette product or a nicotine product; and
(b) complying with any bonding requirement described in Subsection (5).
(2)
(a) A person that holds a valid license to sell cigarettes under Section 59-14-201 or a person that holds a valid license to sell tobacco products under Section 59-14-301 may, without obtaining a separate license in accordance with this section, sell, offer to sell, or distribute an electronic cigarette product or a nicotine product in this state.
(b) Subject to Subsection (2)(a), the commission shall charge $250 for issuing or renewing a license under this section.
(c) The commission shall deposit 88% of any fee received under this section to the fund described in Section 53-1-123.
(3) The commission shall issue a license to sell an electronic cigarette product or a nicotine product to a person that submits an application, on a form created by the commission, that includes:
(a) the person's name;

(b) the address of the facility where the person will sell an electronic cigarette product or a nicotine product; and
(c) any other information the commission requires to implement this chapter.
(4)
(a) A license described in Subsection (3) is:
(i) valid only at one fixed business address;
(ii) valid for one year;
(iii) valid only for a physical location; and
(iv) renewable if a licensee meets the criteria for licensing described in Subsection (3).
(b) For any license issued before January 1, 2027, during the 2027 calendar year, the commission shall re-issue the license as a one-year license in the same calendar month the license was originally set to expire and charge the associated license fee.
(5)
(a) The commission shall require a manufacturer, jobber, distributor, wholesaler, or retailer that is responsible under this part for the collection of tax on an electronic cigarette product, an alternative nicotine product, or a nontherapeutic nicotine product to post a bond.
(b) The manufacturer, jobber, distributor, wholesaler, or retailer may post the bond required by Subsection (5)(a) in combination with any bond required by Section 59-14-201 or 59-14-301.
(c) Subject to Subsection (5)(d), the commission shall determine the form and amount of the bond.
(d) The minimum amount of the bond shall be:
(i) except as provided in Subsection (5)(d)(ii) or (iii), $500;
(ii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond required by Subsection (5)(a) in combination with a bond required by either Section 59-14-201 or 59-14-301, $1,000; or
(iii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond required by Subsection (5)(a) in combination with a bond required by both Sections 59-14-201 and 59-14-301, $1,500.
(6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the additional information described in Subsection (3)(c) that a person shall provide in the application described in Subsection (3).
(7) It is a class B misdemeanor for a person to violate Subsection (1).
(8) A person who violates Subsection (1) is subject to an administrative fine of $1,000 to be collected by the commission.

Amended by Chapter 275, 2026 General Session

59-14-803.5 Publication of licensed distributors -- Retailer transaction only with licensed distributor -- Penalty.
(1)
(a) The commission shall maintain a list that includes the identity of each person licensed under this part to distribute an electronic cigarette product or a nicotine product.
(b) The list shall be:
(i) published on the commission website; and
(ii) updated by the commission at least once per quarter.
(2) A retailer may obtain an electronic cigarette product or a nicotine product only from a licensed distributor identified on the list described in Subsection (1).
(3)

(a) The commission may impose a penalty against a retailer that purchases an electronic cigarette product or a nicotine product from a person other than a licensed distributor.
(b) The penalty is in an amount equal to the tax that is due under Section 59-14-804 on the electronic cigarette product or the nicotine product.

Enacted by Chapter 259, 2024 General Session

59-14-804 Taxation of electronic cigarette product, alternative nicotine product, nontherapeutic nicotine product.

(1) A tax is imposed upon:
(a) an electronic cigarette product;
(b) a nontherapeutic nicotine product; and
(c) an alternative nicotine product.
(2)
(a) The amount of tax imposed under Subsections (1)(a) and (b) is .71 multiplied by the manufacturer's sales price.
(b)
(i) The amount of tax imposed under Subsection (1)(c) on an alternative nicotine product that is a nicotine pouch product is the sum of:
(A) $1; and
(B) 5 cents on each pouch contained within the alternative nicotine product in excess of 20 pouches.
(ii) The amount of tax imposed under Subsection (1)(c) on an alternative nicotine product that is not a nicotine pouch product is .73 multiplied by the manufacturer's sales price.
(3) If a product is sold in the same package as a product that is taxed under Subsection (1), the tax described in Subsection (2) shall apply to the wholesale manufacturer's sale price of the entire packaged product.
(4)
(a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall pay the tax levied under Subsection (1) at the time that an electronic cigarette product, an alternative nicotine product, or a nontherapeutic nicotine product is first received in the state.
(b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not resell an electronic cigarette product, an alternative nicotine product, or a nontherapeutic nicotine product to another distributor, another retailer, or a consumer before paying the tax levied under Subsection (1).
(5)
(a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall remit the taxes collected in accordance with this section to the commission.
(b) The commission shall deposit revenues generated by the tax imposed by this section into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account created in Section 59-14-807.

Amended by Chapter 308, 2026 General Session

59-14-805 Remittance of tax -- Returns -- Invoice required -- Filing requirement-- Exception -- Penalty -- Overpayment.

(1)

(a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user that collects the tax imposed on an electronic cigarette product, an alternative nicotine product, or a nontherapeutic nicotine product shall remit to the commission, in an electronic format approved by the commission:

(i) the tax collected in the previous calendar quarter; and

(ii) the quarterly tax return.

(b) The tax collected and the return are due on or before the last day of April, July, October, and January.

(2)

(a) A manufacturer, jobber, distributor, wholesaler, retailer, or any other person selling an electronic cigarette product, an alternative nicotine product, or a nontherapeutic nicotine product to a person other than the ultimate consumer shall furnish the purchaser with an itemized invoice showing:

(i) the seller's name and address;

(ii) the name and address of the purchaser;

(iii) the date of sale;

(iv) the name and price of the product; and

(v) the discount, if any.

(b) The invoice shall show whether the price includes the tax.

(c) The seller and the purchaser shall retain copies of the invoice and make the invoice available for inspection at the request of the commission or the commission's agent for a period of three years following the sale.

(3)

(a) A consumer that purchases an untaxed electronic cigarette product, alternative nicotine product, or a nontherapeutic nicotine product for use or other consumption shall:

(i) file with the commission, on forms prescribed by the commission, a statement showing the quantity and description of the item subject to tax under this part; and

(ii) pay the tax imposed by this part on that item.

(b) The consumer shall file the statement described in Subsection (3)(a)(i) and pay the tax due on or before the last day of the month immediately following the month during which the consumer purchased an untaxed electronic cigarette product, alternative nicotine product, or a nontherapeutic nicotine product.

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

(4) A tourist who imports an untaxed electronic cigarette product, an alternative nicotine product, or a nontherapeutic nicotine product into the state does not need to file the statement described in Subsection (3) or pay the tax if the item is for the tourist's own use or consumption while in this state.

(5) In addition to the tax required by this part, a person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402, if a person subject to this section fails to:

(a) pay the tax prescribed by this part;

(b) pay the tax on time; or

(c) file a return required by this part.

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

Amended by Chapter 308, 2026 General Session

59-14-806 Refund of taxes paid -- Exemption for exported electronic cigarettes and nicotine products.

(1) When an electronic cigarette product, an alternative nicotine product, or a nontherapeutic nicotine product taxed under this chapter is sold and shipped to a regular dealer in those articles in another state, the seller in this state shall be entitled to a refund of the actual amount of the taxes paid, upon condition that the seller in this state:
 (a) is a licensed dealer;
 (b) signs an affidavit that the electronic cigarette product, the alternative nicotine product, or the nontherapeutic nicotine product was sold and shipped to a regular dealer in those articles in another state;
 (c) furnishes, from the purchaser, a written acknowledgment that the purchaser has received the electronic cigarette product, the alternative nicotine product, or the nontherapeutic nicotine product; and
 (d) reports the name and address of the purchaser.

(2) A wholesaler or distributor in this state that exports an electronic cigarette product, an alternative nicotine product, or a nontherapeutic nicotine product to a regular dealer in those articles in another state shall be exempt from the payment of any tax under this chapter upon furnishing proof of the sale and exportation as the commission may require.

Amended by Chapter 308, 2026 General Session

59-14-807 Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account consists of:
 (a) revenue collected from the tax imposed by Section 59-14-804;
 (b) fees and penalties collected under Section 59-14-810;
 (c) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of electronic cigarette products, as defined in Section 76-9-1101:
  (i) if the total amount of the judgment, settlement, or compromise received by the state exceeds $1,000,000; and
  (ii) after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in this Subsection (2)(c); and
 (d) amounts appropriated by the Legislature.

(3)
 (a) Subject to Subsections (3)(b) and (c), for each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:
  (i) $2,000,000 to the Department of Health and Human Services for enforcement services aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, or other illegal controlled substances to minors, which

the Department of Health and Human Services shall allocate to the local health departments using the formula created in accordance with Section 26A-1-116;

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

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

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

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

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

(vii) $759,700 to the Department of Health and Human Services for the Office of Substance Use and Mental Health to provide substance use treatment and prevention services, including Medicaid matching funds for substance use treatment services;

(viii) $5,084,200 to the State Board of Education for school-based prevention programs; and

(ix) funds to the Department of Health and Human Services for a recovery ready workplace certification program, if established in accordance with Section 26B-7-127.

(b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the Division of Finance shall make the distributions under Subsection (3)(a):

(i) sequentially in the order of priority the distributions are listed under Subsection (3)(a);

(ii) in full or, if insufficient funds are available to satisfy the next distribution in the sequence, in part; and

(iii) until the available funds in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account are exhausted.

(c) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the funds deposited under Section 59-14-810 into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

(i) to the commission, in an amount equal to the amount necessary to create and maintain the registry described in Section 59-14-810;

(ii) to the Department of Health and Human Services, in an amount necessary for completing duties described in Section 59-14-810; and

(iii) to the Department of Health and Human Services, the remainder to be divided among the local health departments for inspection and enforcement described in Sections 26A-1-131 and 59-14-810.

(4)

(a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26B-7-505;

(ii) the labeling requirement described in Section 26B-7-505; and

(iii) the penalty provisions described in Section 26B-7-518.

(b) The Department of Health and Human Services shall use the money received in accordance with Subsection (3)(a)(v) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26B-1-428.
(c) The local health departments shall use the money received in accordance with Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.
(d) The State Board of Education shall use the money received in accordance with Subsection (3)(a)(vii) to distribute to local education agencies to pay for:
(i)
(A) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);
(B) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and
(C) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b); or
(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.
(5)
(a) The fund shall earn interest.
(b) All interest earned on fund money shall be deposited into the fund.
(6) For a fiscal year beginning on or after July 1, 2026, the Division of Finance shall transfer to the General Fund the amount of revenue generated from the taxes imposed under Section 59-14-804 that exceeds $15,900,000.
(7) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account after the distribution described in Subsection (3) may only be used for:
(a) funding commission personnel to enforce compliance with the tax collection requirements of this part; and
(b) programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

Amended by Chapter 416, 2026 General Session

59-14-808 Restrictions on mail order or Internet sales.
(1) For purposes of this section:
(a) "Distributor" means a person, wherever residing or located, who:
(i) is licensed in this state to purchase a non-taxed nicotine product or a non-taxed electronic cigarette product; and
(ii) stores, sells, or otherwise disposes of a nicotine product or an electronic cigarette product.
(b) "Licensed person" means the same as that term is defined in Section 59-14-409.
(c) "Order or purchase" includes:
(i) by mail or delivery service;
(ii) through the Internet or computer network;
(iii) by telephone; or
(iv) through some other electronic method.
(d) "Retailer" means any person who sells a nicotine product or an electronic cigarette product to consumers for personal consumption.
(2) A person, distributor, manufacturer, or retailer shall not:
(a) cause a nicotine product or an electronic cigarette product to be ordered or purchased by anyone other than a licensed person; or

(b) knowingly provide substantial assistance to a person who violates this section.

(3)

(a) Each order or purchase of a nicotine product or an electronic cigarette product in violation of Subsection (2) constitutes a separate violation under this section.

(b) In addition to the penalties in Subsection (4), a person who violates this section is subject to:

(i) a civil penalty in an amount not to exceed $5,000 for each violation of this section;

(ii) an injunction to restrain a threatened or actual violation of this section; and

(iii) recovery by the state for:

(A) the costs of investigation;

(B) the cost of expert witness fees;

(C) the cost of the action; and

(D) reasonable attorney's fees.

(4) If a person knowingly violates this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the General Fund.

Amended by Chapter 36, 2023 General Session

59-14-809 Commission study on enforcement and collection of tax.

(1) The commission shall:

(a) implement increased enforcement of the tax imposed by this part; and

(b) study issues related to increased enforcement and compliance with the requirements of this part.

(2) The study shall include a review of:

(a) the impact of increased enforcement on collections of the tax imposed by this part;

(b) options for long-term funding of increased enforcement of the tax imposed by this part;

(c) the sufficiency of collections of the tax imposed by this part to fund distributions from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account under Section 59-14-807;

(d) impacts of a lack of federal regulation of electronic cigarettes on enforcement and compliance efforts; and

(e) potential impacts on compliance of changing the incidence of taxation to a tax imposed on the retail sale of an electronic cigarette product.

(3) The commission shall annually report the commission's findings and recommendations on the study items described in Subsections (2)(a) through (e) to the Revenue and Taxation Interim Committee on or before the September interim meeting.

Amended by Chapter 308, 2026 General Session

59-14-810 Electronic cigarette product registry.

(1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that is sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, shall certify under penalty of perjury on a form and in the manner prescribed by the commission, that the manufacturer agrees to comply with this section and:

(a) for an electronic cigarette product that contains nicotine, that the product is a premarket authorized or pending electronic cigarette product;

(b) for an electronic cigarette product that is a non-nicotine inhalation product, that the product is approved for sale in interstate commerce by the United States Food and Drug Administration; or

(c) for an electronic cigarette product that is a non-nicotine inhalation substance, that the product is a premarket authorized or pending electronic cigarette product.

(2) When submitting the certification a manufacturer shall submit a form that separately lists each electronic cigarette product that is sold in this state.

(3)

(a) Each certification form shall include:

(i) the name of the electronic cigarette product, nicotine content level by percentage, and any flavors contained in the product;

(ii) for an electronic cigarette product that contains nicotine:

(A) a copy of the order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

(B) evidence that the premarket tobacco product application for the electronic cigarette product or nicotine product was submitted to the United States Food and Drug Administration before September 9, 2020, and a final authorization or order has not yet taken effect;

(iii) for an electronic cigarette product that is a non-nicotine inhalation product, evidence that the product is approved for sale in interstate commerce by the United States Food and Drug Administration;

(iv) for an electronic cigarette product that is a non-nicotine inhalation substance:

(A) a copy of the order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

(B) evidence that the premarket tobacco product application for the electronic cigarette product was submitted to the United States Food and Drug Administration before September 9, 2020, and a final authorization or order has not yet taken effect;

(v) a nonrefundable $1,000 fee for an electronic cigarette product that is being added to the registry in the first instance; and

(vi) information described in Subsection (10) if applicable.

(b) The commission shall make the materials submitted under Subsection (3)(a) available to the Department of Health and Human Services for review and approval.

(c) A manufacturer required to submit a certification form under this section shall notify the commission and the Department of Health and Human Services in a manner prescribed by the commission within 30 days of any material change making the certification form no longer accurate, including:

(i) the issuance or denial of a marketing authorization or other order by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j; or

(ii) any other order or action by the United States Food and Drug Administration or any court that affects the ability of the electronic cigarette product to be introduced or delivered into interstate commerce for commercial distribution in the United States.

(d) On or before January 31 of each year and in a manner prescribed by the commission, a manufacturer shall:

(i) recertify that the information contained in the certification is correct and accurate;

(ii) correct or amend information if necessary; and

(iii) pay a $250 nonrefundable fee for each electronic cigarette product on the registry that is manufactured by the manufacturer.

(e) A manufacturer may amend a certification, including to add additional electronic cigarette products to the registry, if all requirements of this section are met.

(f) The commission shall:

(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.

(d) An electronic cigarette product that contains a cannabinoid may not be listed on the registry.

(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).

(7)

(a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an electronic cigarette product in this state that is not included in the registry.

(b) A manufacturer may not sell, either directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, an electronic cigarette product in this state that is not included in the registry.

(8)

(a) A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic cigarette product in this state that is not included in the registry shall be subject to a civil penalty assessed by the tax commission of:

(i) $1,000 for each unit of product offered for sale in violation of this section; and

(ii) $100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

(b) The commission shall suspend the person's license issued under Sections 59-14-201, 59-14-301, and 59-14-803 for a violation of Subsection (8)(a) as follows:

(i) for a second violation within a 12-month period, at least 14 days;

(ii) for a third violation within a 12-month period, at least 60 days; or

(iii) for a fourth violation within a 12-month period, at least one year.

(c) A manufacturer whose electronic cigarette products are not listed in the registry and are sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil penalty assessed by the tax commission of:

(i) $1,000 for each unit of product offered for retail sale in violation of this section; and

(ii) $100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

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

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

(9)

(a) To assist in ensuring compliance and enforcement of this section and Section 26A-1-131, the commission shall disclose to the following entities, upon request, any information obtained under this section:

(i) the Department of Health and Human Services;

(ii) a local health department; or

(iii) the attorney general.

(b) The commission and attorney general shall share with each other information received under this section, or corresponding laws of other states.

(10)

(a) The commission may not list a nonresident manufacturer of an electronic cigarette product in the registry unless:

(i) the nonresident manufacturer has registered to do business in the state as a foreign corporation or business entity; or

(ii) the nonresident manufacturer appoints and maintains without interruption the services of an agent in this state to receive any service of process on behalf of the manufacturer.

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

(c)

(i) A nonresident manufacturer shall provide notice to the commission 30 days before the termination of the authority of an agent and shall further provide proof to the satisfaction of the commission of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment.

(ii) In the event an agent terminates an agency appointment, the manufacturer shall notify the commission of the termination within five calendar days and shall include proof to the satisfaction of the commission of the appointment of a new agent.

(11) Before May 31 of each year, the commission and the Department of Health and Human Services shall provide a report to the Revenue and Taxation Interim Committee and the Health and Human Services Interim Committee regarding:

(a) the status of the registry;

(b) manufacturers and products included in the registry;

(c) revenue and expenditures related to administration of this section; and

(d) enforcement activities undertaken under this section and Section 26A-1-131.

(12) All fees and penalties collected under this section shall be used for administration and enforcement of this section and Section 26A-1-131.

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

Amended by Chapter 308, 2026 General Session

59-14-811 Reports of illegal product.

If the commission suspects that an electronic cigarette product or a nicotine product is being sold in the state in violation of a law other than a law described in this part, the commission shall report the name of the seller, the type of product, and the county where the product was sold:

(1) to the local health department for the county where the sale occurs;

(2) the Department of Health and Human Services; and

(3) the Department of Public Safety.

Enacted by Chapter 259, 2024 General Session