

## Part 1 Cigarettes and Tobacco and Psychotoxic Chemical Solvents

**Effective until 7/1/2024**

### **76-10-101 Definitions.**

As used in this part:

- (1)
  - (a) "Alternative nicotine product" means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a tobacco product, that:
    - (i) contains nicotine;
    - (ii) is intended for human consumption;
    - (iii) is not purchased with a prescription from a licensed physician; and
    - (iv) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.
  - (b) "Alternative nicotine product" includes:
    - (i) pure nicotine;
    - (ii) snortable nicotine;
    - (iii) dissolvable salts, orbs, pellets, sticks, or strips; and
    - (iv) nicotine-laced food and beverage.
  - (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.
- (2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette.
- (3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned under ordinary conditions of use, and consists of:
  - (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
  - (b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).
- (4)
  - (a) "Electronic cigarette" means:
    - (i) any electronic oral device:
      - (A) that provides an aerosol or a vapor of nicotine or other substance; and
      - (B) which simulates smoking through the use or inhalation of the device;
    - (ii) a component of the device described in Subsection (4)(a)(i); or
    - (iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).
  - (b) "Electronic cigarette" includes an oral device that is:
    - (i) composed of a heating element, battery, or electronic circuit; and
    - (ii) marketed, manufactured, distributed, or sold as:
      - (A) an e-cigarette;
      - (B) an e-cigar;
      - (C) an e-pipe; or
      - (D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).
  - (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26B-4-201.

- (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.
- (6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.
- (7)
  - (a) "Flavored electronic cigarette product" means an electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product.
  - (b) "Flavored electronic cigarette product" includes an electronic cigarette product that has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice.
  - (c) "Flavored electronic cigarette product" does not include an electronic cigarette product that:
    - (i) has a taste or smell of only tobacco, mint, or menthol; or
    - (ii) has been approved by an 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).
- (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.
- (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.
- (10)
  - (a) "Nontherapeutic nicotine device" means a device that:
    - (i) has a pressurized canister that is used to administer nicotine to the user through inhalation or intranasally;
    - (ii) is not purchased with a prescription from a licensed physician; and
    - (iii) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.
  - (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic nicotine nasal spray.
- (11) "Nontherapeutic nicotine device substance" means a substance that:
  - (a) contains nicotine;
  - (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
  - (c) is not purchased with a prescription from a licensed physician; and
  - (d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.
- (12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.
- (13) "Place of business" includes:
  - (a) a shop;
  - (b) a store;
  - (c) a factory;
  - (d) a public garage;
  - (e) an office;
  - (f) a theater;
  - (g) a recreation hall;
  - (h) a dance hall;
  - (i) a poolroom;
  - (j) a cafe;
  - (k) a cafeteria;

- (l) a cabaret;
  - (m) a restaurant;
  - (n) a hotel;
  - (o) a lodging house;
  - (p) a streetcar;
  - (q) a bus;
  - (r) an interurban or railway passenger coach;
  - (s) a waiting room; and
  - (t) any other place of business.
- (14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an electronic cigarette substance.
- (15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.
- (16) "Retail tobacco specialty business" means the same as that term is defined in Section 26B-7-501.
- (17) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.
- (18)
- (a) "Tobacco paraphernalia" means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repack, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette substance, or a nontherapeutic nicotine device substance into the human body.
  - (b) "Tobacco paraphernalia" includes:
    - (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
    - (ii) water pipes;
    - (iii) carburetion tubes and devices;
    - (iv) smoking and carburetion masks;
    - (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;
    - (vi) chamber pipes;
    - (vii) carburetor pipes;
    - (viii) electric pipes;
    - (ix) air-driven pipes;
    - (x) chillums;
    - (xi) bongs; and
    - (xii) ice pipes or chillers.
  - (c) "Tobacco paraphernalia" does not include matches or lighters.
- (19) "Tobacco product" means:
- (a) a cigar;
  - (b) a cigarette; or
  - (c) tobacco in any form, including:
    - (i) chewing tobacco; and
    - (ii) any substitute for tobacco, including flavoring or additives to tobacco.
- (20) "Tobacco retailer" means:
- (a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or
  - (b) a retail tobacco specialty business.

Amended by Chapter 330, 2023 General Session

**Effective 7/1/2024**

**76-10-101 Definitions.**

As used in this part:

- (1)
  - (a) "Alternative nicotine product" means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a tobacco product, that:
    - (i) contains nicotine;
    - (ii) is intended for human consumption;
    - (iii) is not purchased with a prescription from a licensed physician; and
    - (iv) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.
  - (b) "Alternative nicotine product" includes:
    - (i) pure nicotine;
    - (ii) snortable nicotine;
    - (iii) dissolvable salts, orbs, pellets, sticks, or strips; and
    - (iv) nicotine-laced food and beverage.
  - (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.
- (2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette.
- (3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned under ordinary conditions of use, and consists of:
  - (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
  - (b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).
- (4)
  - (a) "Electronic cigarette" means:
    - (i) any electronic oral device:
      - (A) that provides an aerosol or a vapor of nicotine or other substance; and
      - (B) which simulates smoking through the use or inhalation of the device;
    - (ii) a component of the device described in Subsection (4)(a)(i); or
    - (iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).
  - (b) "Electronic cigarette" includes an oral device that is:
    - (i) composed of a heating element, battery, or electronic circuit; and
    - (ii) marketed, manufactured, distributed, or sold as:
      - (A) an e-cigarette;
      - (B) an e-cigar;
      - (C) an e-pipe; or
      - (D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).
  - (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26B-4-201.
- (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.

- (6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.
- (7)
- (a) "Flavored electronic cigarette product" means an electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product.
  - (b) "Flavored electronic cigarette product" includes an electronic cigarette product that is labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice, or mint.
  - (c) "Flavored electronic cigarette product" does not include an electronic cigarette product that has a taste or smell of only tobacco or menthol.
- (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.
- (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.
- (10)
- (a) "Nontherapeutic nicotine device" means a device that:
    - (i) has a pressurized canister that is used to administer nicotine to the user through inhalation or intranasally;
    - (ii) is not purchased with a prescription from a licensed physician; and
    - (iii) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.
  - (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic nicotine nasal spray.
- (11) "Nontherapeutic nicotine device substance" means a substance that:
- (a) contains nicotine;
  - (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
  - (c) is not purchased with a prescription from a licensed physician; and
  - (d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.
- (12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.
- (13) "Place of business" includes:
- (a) a shop;
  - (b) a store;
  - (c) a factory;
  - (d) a public garage;
  - (e) an office;
  - (f) a theater;
  - (g) a recreation hall;
  - (h) a dance hall;
  - (i) a poolroom;
  - (j) a cafe;
  - (k) a cafeteria;
  - (l) a cabaret;
  - (m) a restaurant;
  - (n) a hotel;
  - (o) a lodging house;
  - (p) a streetcar;

- (q) a bus;
  - (r) an interurban or railway passenger coach;
  - (s) a waiting room; and
  - (t) any other place of business.
- (14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an electronic cigarette substance.
- (15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.
- (16) "Premarket authorized or pending electronic cigarette product" means an electronic cigarette product that:
- (a)
    - (i) has been approved by an 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
    - (ii)
      - (A) was marketed in the United States on or before August 8, 2016;
      - (B) the manufacturer submitted a premarket tobacco product application for the electronic cigarette product to the United States Food and Drug Administration under 21 U.S.C. Sec. 387j on or before September 9, 2020; and
      - (C) has an application described in Subsection (16)(a)(ii) that either remains under review by the United States Food and Drug Administration or a final decision on the application has not taken effect; and
  - (b) does not exceed:
    - (i) 4.0% nicotine by weight per container; or
    - (ii) a nicotine concentration of 40 milligrams per milliliter.
- (17) "Retail tobacco specialty business" means the same as that term is defined in Section 26B-7-501.
- (18) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.
- (19)
- (a) "Tobacco paraphernalia" means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette substance, or a nontherapeutic nicotine device substance into the human body.
  - (b) "Tobacco paraphernalia" includes:
    - (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
    - (ii) water pipes;
    - (iii) carburetion tubes and devices;
    - (iv) smoking and carburetion masks;
    - (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;
    - (vi) chamber pipes;
    - (vii) carburetor pipes;
    - (viii) electric pipes;
    - (ix) air-driven pipes;
    - (x) chillums;
    - (xi) bongs; and

- (xii) ice pipes or chillers.
- (c) "Tobacco paraphernalia" does not include matches or lighters.
- (20) "Tobacco product" means:
  - (a) a cigar;
  - (b) a cigarette; or
  - (c) tobacco in any form, including:
    - (i) chewing tobacco; and
    - (ii) any substitute for tobacco, including flavoring or additives to tobacco.
- (21) "Tobacco retailer" means:
  - (a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or
  - (b) a retail tobacco specialty business.

Amended by Chapter 470, 2024 General Session

**76-10-102 Cigarettes and tobacco -- Advertising restrictions -- Warnings in smokeless tobacco advertisements.**

- (1) It is a class B misdemeanor for any person to display on any billboard, streetcar sign, streetcar, bus, placard, or on any other object or place of display, any advertisement of cigarettes, cigarette papers, cigars, chewing tobacco, or smoking tobacco or any disguise or substitute of either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or their substitutes, may have a sign on the front of his place of business stating that he is a dealer in the articles; provided that nothing herein shall be construed to prohibit the advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any substitute of either, in any newspaper, magazine or periodical printed or circulating in this state.
- (2) Any advertisement for smokeless tobacco placed in a newspaper, magazine, or periodical published in this state must bear a warning which states: "Use of smokeless tobacco may cause oral cancer and other mouth disorders and is addictive." This warning must be in a conspicuous location and in conspicuous and legible type, in contrast with the typography, layout, and color of all other printed material in the advertisement. For purposes of this subsection, "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity or nasal passage. In the event the United States Congress passes legislation which requires warnings in advertisements of smokeless tobacco, the specific language required to be placed in advertisements by that legislation shall take precedence over this subsection.

Amended by Chapter 66, 1986 General Session

**76-10-103 Permitting minors to use tobacco products, electronic cigarette products, or nicotine products in place of business.**

It is a class C misdemeanor for the proprietor of any place of business to knowingly permit an individual under 21 years old to frequent a place of business while the individual is using a tobacco product, an electronic cigarette product, or a nicotine product.

Amended by Chapter 302, 2020 General Session

Amended by Chapter 347, 2020 General Session

**76-10-104 Providing a cigar, a cigarette, an electronic cigarette product, a nicotine product, or tobacco to a minor -- Penalties.**

- (1) As used in this section "provides":
  - (a) includes selling, giving, furnishing, sending, or causing to be sent; and
  - (b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.
- (2) An individual who knowingly, intentionally, recklessly, or with criminal negligence provides a tobacco product, an electronic cigarette product, or a nicotine product to an individual who is under 21 years old, is guilty of:
  - (a) a class C misdemeanor on the first offense;
  - (b) a class B misdemeanor on the second offense; and
  - (c) a class A misdemeanor on any subsequent offense.
- (3) This section does not apply to conduct of an employee of a tobacco retailer that is a violation of Section 76-10-114.

Amended by Chapter 302, 2020 General Session

Amended by Chapter 347, 2020 General Session

#### **76-10-104.1 Providing tobacco paraphernalia to a minor -- Penalties.**

- (1) As used in this section, "provides":
  - (a) includes selling, giving, furnishing, sending, or causing to be sent; and
  - (b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.
- (2)
  - (a) It is unlawful for an individual to knowingly, intentionally, recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under 21 years old.
  - (b) An individual who violates this section is guilty of:
    - (i) a class C misdemeanor on the first offense; and
    - (ii) a class B misdemeanor on any subsequent offense.

Amended by Chapter 302, 2020 General Session

Amended by Chapter 347, 2020 General Session

#### **76-10-105 Buying or possessing a tobacco product or an electronic cigarette product by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

- (1) An individual who is 18 years old or older, but younger than 21 years old, and who buys or attempts to buy, accepts, or has in the individual's possession a tobacco product, an electronic cigarette product, or a nicotine product is:
  - (a) guilty of an infraction; and
  - (b) subject to:
    - (i) a minimum fine or penalty of \$60; and
    - (ii) participation in a court-approved tobacco education or cessation program, which may include a participation fee.
- (2)
  - (a) An individual who is under 18 years old and who buys or attempts to buy, accepts, or has in the individual's possession a tobacco product, an electronic cigarette product, or a nicotine



product is subject to a citation under Section 80-6-302, unless the violation is committed on school property under Section 53G-8-211.

- (b) If a violation under this section is adjudicated under Section 80-6-701, the minor may be subject to the following:
  - (i) a fine or penalty, in accordance with Section 80-6-709; and
  - (ii) participation in a court-approved tobacco education program, which may include a participation fee.
- (3)
  - (a) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property.
  - (b) A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

Amended by Chapter 262, 2021 General Session

**76-10-105.1 Requirement of direct, face-to-face sale of a tobacco product, an electronic cigarette product, or a nicotine product -- Minors not allowed in tobacco specialty shop -- Penalties.**

- (1) As used in this section:
  - (a)
    - (i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.
    - (ii) "Face-to-face exchange" does not include a sale through a:
      - (A) vending machine; or
      - (B) self-service display.
  - (b) "Retailer" means a person who:
    - (i) sells a tobacco product, an electronic cigarette product, or a nicotine product to an individual for personal consumption; or
    - (ii) operates a facility with a vending machine that sells a tobacco product, an electronic cigarette product, or a nicotine product.
  - (c) "Self-service display" means a display of a tobacco product, an electronic cigarette product, or a nicotine product to which the public has access without the intervention of a retailer or retailer's employee.
- (2) Except as provided in Subsection (3), a retailer may sell a tobacco product, an electronic cigarette product, or a nicotine product only in a face-to-face exchange.
- (3) The face-to-face sale requirement in Subsection (2) does not apply to:
  - (a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;
  - (b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:
    - (i) that is distinct and separate from the rest of the facility; and
    - (ii) where the retailer only allows an individual who complies with Subsection (4) to be present;or
  - (c) a sale at a retail tobacco specialty business.
- (4) An individual who is under 21 years old may not enter or be present at a retail tobacco specialty business unless the individual is:
  - (a) accompanied by a parent or legal guardian; or
  - (b)

- (i) present at the retail tobacco specialty business solely for the purpose of providing a service to the retail tobacco specialty business, including making a delivery;
  - (ii) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and
  - (iii) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (4)(b)(i).
- (5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual into an area described in Subsection (3)(b) or into a retail tobacco specialty business may not allow the individual to purchase a tobacco product, an electronic cigarette product, or a nicotine product.
- (6) A violation of Subsection (2) or (4) is a:
- (a) class C misdemeanor on the first offense;
  - (b) class B misdemeanor on the second offense; and
  - (c) class A misdemeanor on any subsequent offenses.
- (7) An individual who violates Subsection (5) is guilty of an offense under Section 76-10-104.

Amended by Chapter 348, 2021 General Session

### **76-10-105.3 Prohibition of sale or gift of clove cigarettes.**

It is unlawful for any person to knowingly sell, offer for sale, give or furnish any clove cigarette in this state. For purposes of this section "clove cigarette" means any cigarette which contains more than 10%, by weight, of raw eugenia caryophyllata or caryophyllus, commonly known as clove. Any person who violates this section is guilty of a class B misdemeanor.

Enacted by Chapter 188, 1986 General Session

### **76-10-107 Abuse of psychotoxic chemical solvents.**

- (1) A person is guilty of abuse of psychotoxic chemical solvents if:
- (a) for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of his brain or nervous system, he intentionally:
    - (i) smells or inhales the fumes of any psychotoxic chemical solvent; or
    - (ii) possesses, purchases, or attempts to possess or purchase any psychotoxic chemical solvent; or
  - (b) the person offers, sells, or provides a psychotoxic chemical solvent to another person, knowing that other person or a third party intends to possess or use that psychotoxic chemical solvent in violation of Subsection (1)(a).
- (2) This section does not apply to the prescribed use, distribution, or sale of those substances for medical or dental purposes.
- (3) Abuse of psychotoxic chemical solvents is a class B misdemeanor.
- (4) As used in this section, psychotoxic chemical solvent includes any glue, cement, or other substance containing one or more of the following chemical compounds: acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate, or their isomers, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol, methyl alcohol, methyl ethyl ketone, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrite or propyl nitrate or their isomers, toluene or xylene, or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance. Nothing in this section shall be construed to include any controlled substance regulated by the provisions of Title 58, Chapter 37, Utah Controlled Substances Act.

Amended by Chapter 23, 2002 General Session

**76-10-107.5 Abuse of nitrous oxide -- Penalty.**

- (1) As used in this section, "nitrous oxide" means:
  - (a) N<sub>2</sub>O, a colorless gas or liquid that is also referred to as dinitrogen monoxide, nitrogen oxide, or laughing gas; and
  - (b) any substance containing nitrous oxide.
- (2) A person is guilty of abuse of nitrous oxide who:
  - (a) possesses nitrous oxide with the intent to breathe, inhale, or ingest it for the purpose of:
    - (i) causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses;
    - (ii) in any manner changing, distorting, or disturbing the audio, visual, or mental processes;
  - (b) knowingly and intentionally is under the influence of nitrous oxide; or
  - (c) offers, sells, or provides nitrous oxide to another person, knowing that other person or a third party intends to possess or use the nitrous oxide in violation of Subsection (2)(a) or (b).
- (3) Subsection (2)(b) does not apply to any person who is under the influence of nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person holding a license under state law that authorizes the administration of nitrous oxide.
- (4) Subsection (2)(c) does not apply to any person who administers nitrous oxide for the purpose of medical, surgical, or dental care and who holds a license under state law that authorizes the administration of nitrous oxide.
- (5) A violation of this section is a class A misdemeanor.

Enacted by Chapter 23, 2002 General Session

**76-10-111 Restrictions on sale of smokeless tobacco or electronic cigarette products -- Exceptions.**

- (1) The Legislature finds that:
  - (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who use those products because research indicates that they may cause mouth or oral cancers;
  - (b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;
  - (c) the use of electronic cigarette products may lead to unhealthy behavior such as the use of tobacco products; and
  - (d) it is necessary to restrict the gift of the products described in this Subsection (1) in the interest of the health of the citizens of this state.
- (2)
  - (a) Except as provided in Subsection (3), it is unlawful for a manufacturer, wholesaler, and retailer to:
    - (i) give or distribute without charge any smokeless tobacco, chewing tobacco, or electronic cigarette product in this state;
    - (ii) sell, offer for sale, or furnish any electronic cigarette product at less than the cost, including the amount of any applicable tax, of the product to the manufacturer, wholesaler, or retailer; or
    - (iii) give, distribute, sell, offer for sale, or furnish any electronic cigarette product for free or at a lower price because the recipient of the electronic cigarette product makes another purchase.

- (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection (2)(a)(ii) does not include a discount for:
  - (i) a physical manufacturer coupon:
    - (A) that is surrendered to the wholesaler or retailer at the time of sale; and
    - (B) for which the manufacturer will reimburse the wholesaler or the retailer for the full amount of the discount described in the manufacturer coupon and provided to the purchaser;
  - (ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for the full amount of the rebate provided to the purchaser; or
  - (iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the retailer for the full amount of the promotional fund provided to the purchaser.
- (c) Any individual who violates this section is guilty of:
  - (i) a class C misdemeanor for the first offense; and
  - (ii) a class B misdemeanor for any subsequent offense.
- (3) Smokeless tobacco, chewing tobacco, or an electronic cigarette product may be distributed to adults without charge at professional conventions where the general public is excluded.

Amended by Chapter 302, 2020 General Session  
Amended by Chapter 347, 2020 General Session

**76-10-112 Prohibition of distribution of a tobacco product -- Exceptions.**

- (1) Except as provided in Subsection (3), it is unlawful for a manufacturer, wholesaler, or retailer to give or distribute a tobacco product in this state without charge.
- (2) An individual who violates this subsection is guilty of:
  - (a) a class C misdemeanor for the first offense; and
  - (b) a class B misdemeanor for any subsequent offense.
- (3) A tobacco product may be distributed to an adult without charge at a professional convention where the general public is excluded.
- (4) The prohibition described in Subsection (1) does not apply to a tobacco retailer, a manufacturer, or a distributor that gives a tobacco product to an individual who is 21 years old or older upon the individual's purchase of a tobacco product.

Amended by Chapter 302, 2020 General Session

***Effective until 7/1/2024***

**76-10-113 Prohibition on distribution of flavored electronic cigarette products.**

- (1) It is unlawful for a tobacco retailer that is not a retail tobacco specialty business to give, distribute, sell, offer for sale, or furnish a flavored electronic cigarette product to any person.
- (2) An individual who violates this section is guilty of:
  - (a) a class C misdemeanor for the first offense; and
  - (b) a class B misdemeanor for any subsequent offense.

Enacted by Chapter 302, 2020 General Session

***Effective 7/1/2024***

**76-10-113 Prohibition on distribution of flavored electronic cigarette products -- Prohibition of electronic cigarette products without federal authorization.**

- (1) Subject to Subsection (2), it is unlawful for a tobacco retailer that is not a retail tobacco specialty business to give, distribute, sell, offer for sale, or furnish a flavored electronic cigarette product to any person.
- (2) Notwithstanding Subsection (1), and beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer for sale, or furnish to any person a flavored electronic cigarette product.
- (3) Beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer for sale, or furnish to any person an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product.
- (4) An individual who violates this section is guilty of:
  - (a) a class C misdemeanor for the first offense; and
  - (b) a class B misdemeanor for any subsequent offense.

Amended by Chapter 470, 2024 General Session

**76-10-114 Unlawful sale of a tobacco product, electronic cigarette product, or nicotine product.**

- (1) As used in this section:
  - (a) "Compensatory service" means service or unpaid work performed by an employee, in lieu of the payment of a fine or imprisonment.
  - (b) "Employee" means an employee or an owner of a tobacco retailer.
- (2) It is unlawful for an employee to knowingly or intentionally sell or give a tobacco product, an electronic cigarette product, or a nicotine product in the course of business to an individual who is under 21 years old.
- (3) An employee who violates this section is:
  - (a) on a first violation:
    - (i) guilty of an infraction; and
    - (ii) subject to:
      - (A) a fine not exceeding \$1,000; or
      - (B) compensatory service;
  - (b) on any subsequent violation:
    - (i) guilty of a class C misdemeanor; and
    - (ii) subject to:
      - (A) a fine not exceeding \$2,000; or
      - (B) compensatory service.

Amended by Chapter 12, 2021 Special Session 1

**76-10-115 Unlawful transfer or use of proof of age.**

- (1) As used in this section:
  - (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 driving privilege card issued in accordance with Section 53-3-207.
- (2) An individual is guilty of a class B misdemeanor if the individual knowingly and intentionally transfers that individual's proof of age to another individual to aid that individual in:
- (a) purchasing a tobacco product, an electronic cigarette product, or a nicotine product; or
  - (b) gaining admittance to any part of the premises of a retail tobacco specialty business.
- (3) An individual is guilty of a class A misdemeanor if the individual knowingly and intentionally uses proof of age containing false information with the intent to:
- (a) purchase a tobacco product, an electronic cigarette product, or a nicotine product; or
  - (b) gain admittance to any part of the premises of a retail tobacco specialty business.
- (4) Subsections (2) and (3) do not apply to an individual who uses a false identification in accordance with Subsection 77-39-101(4) at the request of a peace officer.

Amended by Chapter 12, 2021 Special Session 1

**76-10-116 Ordinances, rules, and regulations.**

- (1) Except as provided in Subsection (2), an ordinance, rule, or regulation adopted by a governing body of a political subdivision of the state or a state agency is superseded if:
- (a) the ordinance, rule, or regulation affects:
    - (i) the minimum age of sale for a tobacco product, an electronic cigarette product, or tobacco paraphernalia;
    - (ii) the provision or sale of a tobacco product, an electronic cigarette product, or tobacco paraphernalia;
    - (iii) the flavoring of a tobacco product or an electronic cigarette product;
    - (iv) the purchase or possession of a tobacco product, an electronic cigarette product, or tobacco paraphernalia; or
    - (v) the placement or display of a tobacco product or an electronic cigarette product; and
  - (b) the ordinance, rule, or regulation is not essentially identical to any state statute relating to the applicable subject described in Subsection (1)(a).
- (2) A governing body of a political subdivision of the state or a state agency may adopt an ordinance, rule, or regulation on a subject described in Subsections (1)(a)(i) through (v) if the governing body of a political subdivision of the state or a state agency is authorized by statute to adopt the ordinance, rule, or regulation.
- (3) Subsection (1) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government.

Enacted by Chapter 302, 2020 General Session