♣ Approved for Filing: RCL♣ 12-29-97 2:19 PM♣

1	SALE OF TOBACCO PRODUCTS			
2	1998 GENERAL SESSION			
3	STATE OF UTAH			
4	Sponsor: Carl R. Saunders			
5	AN ACT RELATING TO CRIMINAL CODE; DEFINING TERMS; REQUIRING TOBACCO			
6	PRODUCTS BE SOLD IN A DIRECT, FACE-TO-FACE EXCHANGE WITH LIMITED			
7	EXCEPTIONS; AND IMPOSING MINIMUM FINES.			
8	This act affects sections of Utah Code Annotated 1953 as follows:			
9	AMENDS:			
10	76-10-101, as last amended by Chapter 281, Laws of Utah 1994			
11	76-10-105.1, as enacted by Chapter 194, Laws of Utah 1989			
12	Be it enacted by the Legislature of the state of Utah:			
13	Section 1. Section 76-10-101 is amended to read:			
14	76-10-101. Definitions.			
15	As used in this part:			
16	[(1) "Bar" means any establishment or portion of an establishment where one can consume			
17	alcoholic beverages and hors d'oeuvres, but excluding any such establishment or portion of the			
18	establishment with tables or seating facilities where, in consideration of payment, meals are			
19	served.]			
20	[(2)] (1) "Place of business" means any and all [such] places such as shops, stores,			
21	factories, public garages, offices, theaters, recreation and dance halls, poolrooms, cafes, cafeterias,			
22	cabarets, restaurants, hotels, lodging houses, streetcars, buses, interurban and railway passenger			
23	coaches and waiting rooms.			
24	[(3)] (2) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other			
25	lighted smoking equipment.			
26	Section 2. Section 76-10-105.1 is amended to read:			
27	76-10-105.1. Requirement of direct, face-to-face sale of tobacco products.			

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1	(1) As used in this section:			
2	(a) "Cigarette" means any product which contains nicotine, is intended to be burned under			
3	ordinary conditions of use, and consists of:			
4	(i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or			
5	(ii) any roll of tobacco wrapped in any substance containing tobacco which, because of			
6	its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be			
7	offered to, or purchased by, consumers as a cigarette described in Subsection (a)(i).			
8	(b) "Cigarette tobacco" means any product that consists of loose tobacco that contains or			
9	delivers nicotine and is intended for use by consumers in a cigarette. Unless otherwise stated, the			
10	requirements pertaining to cigarettes shall also apply to cigarette tobacco.			
11	(c) "Retailer" means any person who sells cigarettes or smokeless tobacco to individuals			
12	for personal consumption or who operates a facility where vending machines or self-service			
13	displays are permitted under this section.			
14	(d) "Smokeless tobacco" means any product that consists of cut, ground, powdered, or leaf			
15	tobacco that contains nicotine and that is intended to be placed in the oral cavity.			
16	[(1)] (2) Except as provided in Subsection [(2)](3), [the gift or sale of cigarettes or tobacco			
17	in any form through vending machines or tobacco product machines is prohibited in this state.] a			
18	retailer may sell cigarettes and smokeless tobacco only in a direct, face-to-face exchange between			
19	the retailer and the consumer. Examples of methods that are not permitted include vending			
20	machines and self-service displays.			
21	(3) The following sales are permitted as exceptions to Subsection (2):			
22	(a) mail-order sales, excluding mail-order redemption of coupons and distribution of free			
23	samples through the mail; and			
24	(b) vending machines, including vending machines that sell packaged, single cigarettes,			
25	and self-service displays that are located in facilities where the retailer ensures that no person			
26	younger than under 19 years of age is present, or permitted to enter, at any time.			
27	[(2) (a) A bar, or a privately owned and operated club or association that has a private club			
28	liquor license under Title 32A, Chapter 5, or that requires membership and charges a membership			
29	fee, may maintain cigarette or tobacco product vending machines on its premises.]			
30	[(b) A workplace may maintain cigarette or tobacco product vending machines for its adult			
31	employees, in an area not available to the general public.]			

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5	\$300.	
1		(c) class A misdemeanor on the third and all subsequent offenses with a minimum fine of
3		(b) class B misdemeanor on the second offense[5] with a minimum fine of \$200; and [a]
2		(a) class C misdemeanor on the first offense[, a] with a minimum fine of \$100;
l		$\left[\frac{(3)}{4}\right]$ Violation of this section is a:

Legislative Review Note as of 12-18-97 10:13 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel