

- 119 (i) a public or private kindergarten, elementary, middle, junior high, or high school;
 120 (ii) a licensed child-care facility or preschool;
 121 (iii) a trade or technical school;
 122 (iv) a church;
 123 (v) a public library;
 124 (vi) a public playground;
 125 (vii) a public park;
 126 (viii) a youth center or other space used primarily for youth oriented activities;
 127 (ix) a public recreational facility; or
 128 (x) a public arcade.

129 (b) "Nicotine product" is as defined in Section 76-10-101.

130 ~~(b)~~ (c) "Retail tobacco specialty business" means a commercial establishment in
 131 which:

132 (i) the sale of tobacco products accounts for more than 35% of the total annual gross
 133 receipts for the establishment;

134 (ii) food and beverage products, excluding gasoline sales, is less than 45% of the total
 135 annual gross receipts for the establishment; and

136 (iii) the establishment is not licensed as a pharmacy under Title 58, Chapter 17b,
 137 Pharmacy Practice Act.

138 ~~(c)~~ (d) "Tobacco product" means:

139 (i) any cigar, cigarette, or electronic cigarette as defined in Section 76-10-101;

140 (ii) a tobacco product as defined in Section 59-14-102, including:

141 (A) chewing tobacco; or

142 (B) any substitute for a tobacco product, including flavoring or additives to tobacco;

143 ~~and~~

144 (iii) tobacco paraphernalia as defined in Section 76-10-104.1[?]; and

145 (iv) a nicotine product ~~is~~ derived from tobacco ~~is~~ .

146 (2) The regulation of a retail tobacco specialty business is an exercise of the police
 147 powers of the state, and through delegation, to other governmental entities.

148 (3) (a) Except as provided in Subsection (7), and beginning July 1, 2012, a county shall
 149 require an entity to be licensed as a retail tobacco specialty business to conduct business as a

181 (b) A retail tobacco specialty business may maintain an exemption under Subsection
182 (7)(a) if:

183 (i) the business license is renewed continuously without relapse or permanent
184 revocation;

185 (ii) the retail tobacco specialty business is not closed for business or otherwise
186 suspends the sale of tobacco products for more than 60 consecutive days;

187 (iii) the retail tobacco specialty business does not substantially change the business
188 premises or its business operation; and

189 (iv) the retail tobacco specialty business maintains the right to operate under the terms
190 of other applicable laws, including zoning ordinances, building codes, and the business license
191 issued prior to May 8, 2012.

192 Section 3. Section **26-42-102** is amended to read:

193 **26-42-102. Definitions.**

194 As used in this chapter:

195 (1) "Commission" means the Utah State Tax Commission.

196 (2) "Employee" means an employee of a licensee.

197 (3) "Enforcing agency" means the state Department of Health, or any local health
198 department enforcing the provisions of this chapter.

199 (4) "Licensee" means a person licensed:

200 (a) under Section 59-14-201 to sell cigarettes at retail; or

201 (b) under Section 59-14-301 to sell tobacco products at retail.

202 (5) "License to sell tobacco" or "license" means a license issued:

203 (a) under Section 59-14-201 to sell cigarettes at retail; or

204 (b) under Section 59-14-301 to sell tobacco products at retail.

205 (6) "Nicotine product" is as defined in Section 76-10-101.

206 [~~6~~] (7) "Tobacco" means:

207 (a) cigarettes or tobacco products as defined in Section 59-14-102[~~7~~]; or

208 (b) a nicotine product ~~H~~→ derived from tobacco ←~~H~~ .

209 Section 4. Section **59-14-102** is amended to read:

210 **59-14-102. Definitions.**

211 As used in this chapter:

- 243 (i) cut;
- 244 (ii) ground; or
- 245 (iii) powdered;
- 246 (b) has at least 45% moisture content, as determined by the commission by rule made
- 247 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 248 (c) is not intended to be:
 - 249 (i) smoked; or
 - 250 (ii) placed in the nasal cavity; and
- 251 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or
- 252 distributed in single-use units, including:
 - 253 (i) tablets;
 - 254 (ii) lozenges;
 - 255 (iii) strips;
 - 256 (iv) sticks; or
 - 257 (v) packages containing multiple single-use units.
- 258 (9) "Nicotine ~~Ĥ~~→ [candy] dissolvables ←Ĥ " means an item that:
 - 259 (a) contains:
 - 260 (i) nicotine; and
 - 261 (ii) a natural or artificial sweetener;
 - 262 (b) is ingested orally; and
 - 263 (c) is not approved by the United States Food and Drug Administration as an aid in
 - 264 quitting the use of tobacco or a nicotine product.
 - 265 (10) "Nicotine product" means:
 - 266 (a) nicotine ~~Ĥ~~→ [candy] dissolvables ←Ĥ ; or
 - 267 (b) any other ~~Ĥ~~→ [a] ←Ĥ product:
 - 268 (i) intended for human consumption; and
 - 269 (ii) that:
 - 270 (A) contains nicotine;
 - 271 (B) is not an e-cigarette or nicotine in liquid form; and
 - 272 (C) is not approved by the United States Food and Drug Administration as an aid in
 - 273 quitting the use of tobacco or nicotine.

305 (4) "Place of business" includes:

306 (a) a shop;

307 (b) a store;

308 (c) a factory;

309 (d) a public garage;

310 (e) an office;

311 (f) a theater;

312 (g) a recreation hall;

313 (h) a dance hall;

314 (i) a poolroom;

315 (j) a café;

316 (k) a cafeteria;

317 (l) a cabaret;

318 (m) a restaurant;

319 (n) a hotel;

320 (o) a lodging house;

321 (p) a streetcar;

322 (q) a bus;

323 (r) an interurban or railway passenger coach;

324 (s) a waiting room; and

325 (t) any other place of business.

326 (5) "Nicotine product" means a product that:

327 (a) contains nicotine ~~is~~ **derived from tobacco** ~~;~~ ;

328 (b) is intended for human consumption; and

329 (c) is not approved by the United States Food and Drug Administration as an aid in
330 quitting the use of tobacco.

331 (6) "Retail tobacco specialty business" is as defined in Section 10-8-41.6.

332 ~~[(5)]~~ (7) "Smoking" ~~[means the possession of any lighted cigar, cigarette, pipe, or other~~
333 ~~lighted smoking equipment]~~ is as defined in Section 26-38-2.

334 (8) (a) "Tobacco product" means:

335 (i) a product made of, or containing, tobacco; or