

TOBACCO SALES ENFORCEMENT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends penalties for selling tobacco to a minor.

Highlighted Provisions:

This bill:

▶ requires an enforcing agency to impose administrative penalties against violators;

and

▶ increases administrative penalties against violators.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-42-103, as last amended by Laws of Utah 2015, Chapter 132

26-42-106, as enacted by Laws of Utah 1998, Chapter 319

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-42-103** is amended to read:

26-42-103. Violations and penalties -- Imposition by enforcing agency and tax commission.



28 (1) If, following an investigation or issuance of a citation or information under Section
29 77-39-101, an enforcing agency determines under Section 26-42-104 that a licensee or ~~[any]~~ an
30 employee of a licensee has sold tobacco to ~~[a person]~~ an individual younger than 19 years of
31 age, as prohibited by Section 76-10-104, the enforcing agency ~~[may]~~ shall, except as prohibited
32 in Subsection 26-42-105(2), impose upon the licensee the following administrative penalties:

33 (a) upon the first violation, a penalty of ~~[not more]~~ no less than \$300 and no more than
34 \$750;

35 (b) upon a second violation at the same retail location, and within ~~[12 months of]~~ 36
36 months after the first violation, a penalty of ~~[not more]~~ no less than \$750 and no more than
37 \$1,000; and

38 (c) upon a third or subsequent violation at the same retail location and within ~~[12~~
39 ~~months of the first]~~ 36 months after the second violation, a penalty of ~~[not more]~~ no less than
40 \$1,000 and no more than \$1,500.

41 (2) The enforcing agency shall notify the commission in writing of any order or order
42 of default finding a violation of Subsection (1) which is a third or fourth violation.

43 (3) The commission, upon receipt of the written notification under Subsection (2), shall
44 take action under Section 59-14-203.5 or 59-14-301.5 against the license to sell tobacco:

45 (a) by suspending the licensee's license to sell tobacco at that location for not more
46 than ~~[30]~~ 90 days, upon receipt of notification of a third violation under Subsection (1)(c); and

47 (b) by revoking the license to sell tobacco at that location held by the licensee,
48 including any license under suspension, upon receipt of notification of a fourth violation under
49 Subsection (1)(c).

50 (4) When the commission revokes a license under Subsection (3)(b), the commission
51 may not issue to the licensee, or to the business entity using the license that is revoked, a
52 license under Section 59-14-202, 59-14-301, or 59-14-803 to sell tobacco at the location for
53 which the license was issued for one year after:

54 (a) the day on which the time for filing an appeal of the revocation ends; or

55 (b) if the revocation is appealed, the day on which the decision to uphold the
56 revocation becomes final.

57 (5) This section does not prevent any bona fide purchaser of the business, who is not a
58 sole proprietor, director, corporate officer, or partner or other holder of significant interest in

59 the entity selling the business, from immediately applying for and obtaining a license to sell
60 tobacco.

61 Section 2. Section **26-42-106** is amended to read:

62 **26-42-106. Recognition of licensee's training program.**

63 (1) In determining the amount of the monetary penalty to be imposed for an employee's
64 violation of Section **26-42-103**, the hearing officer [~~shall~~] may reduce the penalty [~~by at least~~
65 ~~50%~~] if [~~he~~] the hearing officer determines:

66 (a) the licensee has implemented a documented employee training program; and

67 (b) the employee has completed that training program within 30 days of commencing
68 duties of selling tobacco products.

69 (2) (a) If the hearing officer determines under Subsection (1), regarding a first offense
70 at a location, that the licensee has not implemented a documented training program with a
71 written curriculum for employees at that location regarding compliance with this chapter, the
72 hearing officer may suspend [~~all or~~] a portion of the monetary penalty, contingent upon the
73 licensee's initiating a training program for employees at that location within 30 days after the
74 hearing date.

75 (b) If the hearing officer determines at a subsequent hearing that the licensee has not
76 implemented the training program within the time period required under Subsection (2)(a), the
77 suspended monetary penalty shall be promptly imposed, unless the licensee demonstrates good
78 cause for granting an extension of time for implementation of the training program.