

TOBACCO AGE RESTRICTION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the age when a person may lawfully obtain, possess, and use tobacco products.

Highlighted Provisions:

This bill:

▶ modifies provisions of the Utah Code to provide that:

• beginning on July 1, 2018, the minimum age for obtaining, possessing, or using tobacco products is 20 years of age; and

• beginning on January 1, 2019, the minimum age for obtaining, possessing, or using tobacco products is 21 years of age.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-8-47, as last amended by Laws of Utah 2012, Chapter 140

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

53-3-207, as last amended by Laws of Utah 2016, Chapter 350

53-3-806, as last amended by Laws of Utah 2010, Chapter 276



- 28 [59-14-203.5](#), as last amended by Laws of Utah 2011, Chapter 96
- 29 [59-14-301.5](#), as last amended by Laws of Utah 2011, Chapter 96
- 30 [63I-1-210](#), as last amended by Laws of Utah 2016, Chapter 131
- 31 [63I-1-226](#), as last amended by Laws of Utah 2016, Chapters 89, 170, 279, and 327
- 32 [63I-1-259](#), as last amended by Laws of Utah 2016, Chapters 350, 367, and 373
- 33 [63I-1-276](#), as enacted by Laws of Utah 2014, Chapter 226
- 34 [63I-1-277](#), as renumbered and amended by Laws of Utah 2008, Chapter 382
- 35 [76-10-104](#), as last amended by Laws of Utah 2010, Chapter 114
- 36 [76-10-105](#), as last amended by Laws of Utah 2010, Chapter 114
- 37 [76-10-105.1](#), as last amended by Laws of Utah 2015, Chapters 66 and 132
- 38 [77-39-101](#), as last amended by Laws of Utah 2010, Chapters 114 and 276

ENACTS:

- 40 [10-8-47.4](#), Utah Code Annotated 1953
- 41 [26-42-103.5](#), Utah Code Annotated 1953
- 42 [59-14-203.6](#), Utah Code Annotated 1953
- 43 [59-14-216](#), Utah Code Annotated 1953
- 44 [59-14-301.6](#), Utah Code Annotated 1953
- 45 [76-10-104.5](#), Utah Code Annotated 1953
- 46 [76-10-105.2](#), Utah Code Annotated 1953
- 47 [76-10-105.5](#), Utah Code Annotated 1953
- 48 [77-39-101.5](#), Utah Code Annotated 1953

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

Section 1. Section **10-8-47** is amended to read:

10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or drug addicts.

(1) A municipal legislative body may:

(a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights, bullfights, and all disorderly conduct and provide against and punish the offenses of assault and

59 battery and petit larceny; [~~the municipal legislative body may~~]

60 (b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street,
61 house, or place in the city; [~~the municipal legislative body may~~]

62 (c) regulate and prevent the discharge of firearms, rockets, powder, fireworks, or any
63 other dangerous or combustible material; [~~the municipal legislative body may~~]

64 (d) provide against and prevent the offense of obtaining money or property under false
65 pretenses and the offense of embezzling money or property in all cases where the money or
66 property embezzled or obtained under false pretenses does not exceed in value the sum of \$500
67 [~~and may~~]; and

68 (e) prohibit the sale, giving away, or furnishing of narcotics, alcoholic beverages, and
69 tobacco to a person younger than 21 years of age; [~~or tobacco to any person younger than 19
70 years of age; cities~~].

71 (2) Cities may, by ordinance, prohibit the possession of controlled substances as
72 defined in the Utah Controlled Substances Act or any other endangering or impairing
73 substance, provided the conduct is not a class A misdemeanor or felony; [~~and~~].

74 (3) Cities may provide for treatment of alcoholics, narcotic addicts, and other persons
75 who are addicted to the use of drugs or intoxicants such that a person substantially lacks the
76 capacity to control the person's use of the drugs or intoxicants, and judicial supervision may be
77 imposed as a means of effecting [~~their~~] the person's rehabilitation.

78 Section 2. Section 10-8-47.4 is enacted to read:

79 **10-8-47.4. Intoxication -- Fights -- Disorderly conduct -- Assault and battery --**
80 **Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False**
81 **pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to minors --**
82 **Possession of controlled substances -- Treatment of alcoholics and narcotics or drug**
83 **addicts.**

84 (1) A municipal legislative body may:

85 (a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights,
86 bullfights, and all disorderly conduct and provide against and punish the offenses of assault and
87 battery and petit larceny;

88 (b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street,
89 house, or place in the city;

90 (c) regulate and prevent the discharge of firearms, rockets, powder, fireworks, or any
91 other dangerous or combustible material;

92 (d) provide against and prevent the offense of obtaining money or property under false
93 pretenses and the offense of embezzling money or property in all cases where the money or
94 property embezzled or obtained under false pretenses does not exceed in value the sum of
95 \$500;

96 (e) prohibit the sale, giving away, or furnishing of narcotics or alcoholic beverages to a
97 person younger than 21 years of age; and

98 (f) prohibit the sale, giving away, or furnishing of tobacco to any person younger than
99 20 years of age.

100 (2) Cities may, by ordinance, prohibit the possession of controlled substances as
101 defined in the Utah Controlled Substances Act or any other endangering or impairing
102 substance, provided the conduct is not a class A misdemeanor or felony.

103 (3) Cities may provide for treatment of alcoholics, narcotic addicts, and other persons
104 who are addicted to the use of drugs or intoxicants such that a person substantially lacks the
105 capacity to control the person's use of the drugs or intoxicants, and judicial supervision may be
106 imposed as a means of effecting the person's rehabilitation.

107 Section 3. Section **26-42-103** is amended to read:

108 **26-42-103. Violations and penalties -- Imposition by enforcing agency and tax**
109 **commission.**

110 (1) If, following an investigation or issuance of a citation or information under Section
111 **77-39-101**, an enforcing agency determines under Section **26-42-104** that a licensee or any
112 employee has sold tobacco to a person younger than [~~19~~] 21 years of age, as prohibited by
113 Section **76-10-104**, the enforcing agency may impose upon the licensee the following
114 administrative penalties:

115 (a) upon the first violation, a penalty of not more than \$300;

116 (b) upon a second violation at the same retail location, and within 12 months of the
117 first violation, a penalty of not more than \$750; and

118 (c) upon a third or subsequent violation at the same retail location, and within 12
119 months of the first violation, a penalty of not more than \$1,000.

120 (2) The enforcing agency shall notify the commission in writing of any order or order

121 of default finding a violation of Subsection (1) which is a third or fourth violation.

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

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

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

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

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

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

136 (5) This section does not prevent any bona fide purchaser of the business, who is not a
137 sole proprietor, director, corporate officer, or partner or other holder of significant interest in
138 the entity selling the business, from immediately applying for and obtaining a license to sell
139 tobacco.

140 Section 4. Section [26-42-103.5](#) is enacted to read:

141 **[26-42-103.5](#). Violations and penalties -- Imposition by enforcing agency and tax
142 commission.**

143 (1) If, following an investigation or issuance of a citation or information under Section
144 [77-39-101](#), an enforcing agency determines under Section [26-42-104](#) that a licensee or any
145 employee has sold tobacco to a person younger than 20 years of age, as prohibited by Section
146 [76-10-104](#), the enforcing agency may impose upon the licensee the following administrative
147 penalties:

148 (a) upon the first violation, a penalty of not more than \$300;

149 (b) upon a second violation at the same retail location, and within 12 months of the
150 first violation, a penalty of not more than \$750; and

151 (c) upon a third or subsequent violation at the same retail location, and within 12

152 months of the first violation, a penalty of not more than \$1,000.

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

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

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

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

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

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

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

169 (5) This section does not prevent any bona fide purchaser of the business, who is not a
170 sole proprietor, director, corporate officer, or partner or other holder of significant interest in
171 the entity selling the business, from immediately applying for and obtaining a license to sell
172 tobacco.

173 Section 5. Section 53-3-207 is amended to read:

174 **53-3-207. License certificates or driving privilege cards issued to drivers by class**
175 **of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary**
176 **licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**

177 (1) As used in this section:

178 (a) "Driving privilege" means the privilege granted under this chapter to drive a motor
179 vehicle.

180 (b) "Governmental entity" means the state and its political subdivisions as defined in
181 this Subsection (1).

182 (c) "Political subdivision" means any county, city, town, school district, public transit

183 district, community reinvestment agency, special improvement or taxing district, local district,
184 special service district, an entity created by an interlocal agreement adopted under Title 11,
185 Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public
186 corporation.

187 (d) "State" means this state, and includes any office, department, agency, authority,
188 commission, board, institution, hospital, college, university, children's justice center, or other
189 instrumentality of the state.

190 (2) (a) The division shall issue to every person privileged to drive a motor vehicle, a
191 regular license certificate, a limited-term license certificate, or a driving privilege card
192 indicating the type or class of motor vehicle the person may drive.

193 (b) A person may not drive a class of motor vehicle unless granted the privilege in that
194 class.

195 (3) (a) Every regular license certificate, limited-term license certificate, or driving
196 privilege card shall bear:

197 (i) the distinguishing number assigned to the person by the division;

198 (ii) the name, birth date, and Utah residence address of the person;

199 (iii) a brief description of the person for the purpose of identification;

200 (iv) any restrictions imposed on the license under Section 53-3-208;

201 (v) a photograph of the person;

202 (vi) a photograph or other facsimile of the person's signature;

203 (vii) an indication whether the person intends to make an anatomical gift under Title
204 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended
205 under Subsection 53-3-214(3); and

206 (viii) except as provided in Subsection (3)(b), if the person states that the person is a
207 veteran of the United States military on the application for a driver license in accordance with
208 Section 53-3-205 and provides verification that the person was granted an honorable or general
209 discharge from the United States Armed Forces, an indication that the person is a United States
210 military veteran for a regular license certificate or limited-term license certificate issued on or
211 after July 1, 2011.

212 (b) A regular license certificate or limited-term license certificate issued to any person
213 younger than 21 years on a portrait-style format as required in Subsection (5)(b)(i) is not

214 required to include an indication that the person is a United States military veteran under
215 Subsection (3)(a)(viii).

216 (c) A new license certificate issued by the division may not bear the person's social
217 security number.

218 (d) (i) The regular license certificate, limited-term license certificate, or driving
219 privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

220 (ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular
221 license certificate, limited-term license certificate, or driving privilege card shall be as
222 prescribed by the commissioner.

223 (iii) The commissioner may also prescribe the issuance of a special type of limited
224 regular license certificate, limited-term license certificate, or driving privilege card under
225 Subsection 53-3-220(4).

226 (4) (a) (i) The division, upon determining after an examination that an applicant is
227 mentally and physically qualified to be granted a driving privilege, may issue to an applicant a
228 receipt for the fee if the applicant is eligible for a regular license certificate or limited-term
229 license certificate.

230 (ii) (A) The division shall issue a temporary regular license certificate or temporary
231 limited-term license certificate allowing the person to drive a motor vehicle while the division
232 is completing its investigation to determine whether the person is entitled to be granted a
233 driving privilege.

234 (B) A temporary regular license certificate or a temporary limited-term license
235 certificate issued under this Subsection (4) shall be recognized and have the same rights and
236 privileges as a regular license certificate or a limited-term license certificate.

237 (b) The temporary regular license certificate or temporary limited-term license
238 certificate shall be in the person's immediate possession while driving a motor vehicle, and it is
239 invalid when the person's regular license certificate or limited-term license certificate has been
240 issued or when, for good cause, the privilege has been refused.

241 (c) The division shall indicate on the temporary regular license certificate or temporary
242 limited-term license certificate a date after which it is not valid as a temporary license.

243 (d) (i) Except as provided in Subsection (4)(d)(ii), the division may not issue a
244 temporary driving privilege card or other temporary permit to an applicant for a driving

245 privilege card.

246 (ii) The division may issue a learner permit issued in accordance with Section
247 [53-3-210.5](#) to an applicant for a driving privilege card.

248 (5) (a) The division shall distinguish learner permits, temporary permits, regular
249 license certificates, limited-term license certificates, and driving privilege cards issued to any
250 person younger than 21 years of age by use of plainly printed information or the use of a color
251 or other means not used for other regular license certificates, limited-term license certificates,
252 or driving privilege cards.

253 (b) The division shall distinguish a regular license certificate, limited-term license
254 certificate, or driving privilege card issued to any person~~[(i)]~~ younger than 21 years of age by
255 use of a portrait-style format not used for other regular license certificates, limited-term license
256 certificates, or driving privilege cards and by plainly printing the date the regular license
257 certificate, limited-term license certificate, or driving privilege card holder is 21 years of age~~;~~
258 ~~which is the legal age for purchasing an alcoholic beverage or alcoholic product under Section~~
259 ~~[32B-4-403](#), and].~~

260 ~~[(ii) younger than 19 years of age, by plainly printing the date the regular license~~
261 ~~certificate, limited-term license certificate, or driving privilege card holder is 19 years of age,~~
262 ~~which is the legal age for purchasing tobacco products under Section [76-10-104](#).]~~

263 (6) The division shall distinguish a limited-term license certificate by clearly indicating
264 on the document:

- 265 (a) that it is temporary; and
266 (b) its expiration date.

267 (7) (a) The division shall only issue a driving privilege card to a person whose privilege
268 was obtained without providing evidence of lawful presence in the United States as required
269 under Subsection [53-3-205](#)(8).

270 (b) The division shall distinguish a driving privilege card from a license certificate by:

- 271 (i) use of a format, color, font, or other means; and
272 (ii) clearly displaying on the front of the driving privilege card a phrase substantially
273 similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

274 (8) The provisions of Subsection (5)(b) do not apply to a learner permit, temporary
275 permit, temporary regular license certificate, temporary limited-term license certificate, or any

276 other temporary permit.

277 (9) The division shall issue temporary license certificates of the same nature, except as
278 to duration, as the license certificates that they temporarily replace, as are necessary to
279 implement applicable provisions of this section and Section 53-3-223.

280 (10) (a) A governmental entity may not accept a driving privilege card as proof of
281 personal identification.

282 (b) A driving privilege card may not be used as a document providing proof of a
283 person's age for any government required purpose.

284 (11) A person who violates Subsection (2)(b) is guilty of an infraction.

285 (12) Unless otherwise provided, the provisions, requirements, classes, endorsements,
286 fees, restrictions, and sanctions under this code apply to a:

287 (a) driving privilege in the same way as a license or limited-term license issued under
288 this chapter; and

289 (b) limited-term license certificate or driving privilege card in the same way as a
290 regular license certificate issued under this chapter.

291 Section 6. Section 53-3-806 is amended to read:

292 **53-3-806. Portrait-style format -- Minor's card distinguishable.**

293 (1) The division shall use a portrait-style format for all identification cards, similar to
294 the format used for license certificates issued to a person younger than 21 years of age under
295 Section 53-3-207.

296 (2) The identification card issued to a person younger than 21 years of age shall be
297 distinguished by use of plainly printed information or by the use of a color or other means not
298 used for the identification card issued to a person 21 years of age or older.

299 (3) The division shall distinguish an identification card issued to any person[:(a)]
300 younger than 21 years of age by plainly printing the date the identification card holder is 21
301 years of age[, which is the legal age for purchasing an alcoholic beverage or alcoholic product
302 under Section 32B-4-403; and].

303 [~~(b) younger than 19 years of age by plainly printing the date the identification card~~
304 ~~holder is 19 years of age, which is the legal age for purchasing tobacco products under Section~~
305 ~~76-10-104.~~]

306 (4) The division shall distinguish a limited-term identification card by clearly

307 indicating on the card:

308 (a) that it is temporary; and

309 (b) its expiration date.

310 Section 7. Section 59-14-203.5 is amended to read:

311 **59-14-203.5. Commission action to suspend or revoke license.**

312 (1) (a) The commission shall suspend or revoke [~~licenses~~] a license to sell tobacco, as
313 required under Section 26-42-103 regarding suspension or revocation of a license due to the
314 sale of cigarettes to a person younger than [~~19~~] 21 years of age, upon receipt of notice of an
315 enforcing agency's finding of a violation of Section 26-42-103.

316 (b) The commission shall provide written notice of the suspension or revocation to the
317 licensee.

318 (2) It is the duty of the enforcing agency to advise the commission of any finding of a
319 violation of Section 26-42-103 for which suspension or revocation of the license is a penalty.

320 (3) When the commission revokes a licensee's license under this section the
321 commission may not issue to the licensee, or to the business entity using the license that is
322 revoked, a license under Section 59-14-202 or 59-14-301 to sell tobacco at the location for
323 which the license was issued for one year after:

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

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

327 Section 8. Section 59-14-203.6 is enacted to read:

328 **59-14-203.6. Commission action to suspend or revoke license.**

329 (1) (a) The commission shall suspend or revoke a license to sell tobacco, as required
330 under Section 26-42-103 regarding suspension or revocation of a license due to the sale of
331 cigarettes to a person younger than 20 years of age, upon receipt of notice of an enforcing
332 agency's finding of a violation of Section 26-42-103.

333 (b) The commission shall provide written notice of the suspension or revocation to the
334 licensee.

335 (2) It is the duty of the enforcing agency to advise the commission of any finding of a
336 violation of Section 26-42-103 for which suspension or revocation of the license is a penalty.

337 (3) When the commission revokes a licensee's license under this section the

338 commission may not issue to the licensee, or to the business entity using the license that is
339 revoked, a license under Section 59-14-202 or 59-14-301 to sell tobacco at the location for
340 which the license was issued for one year after:

- 341 (a) the day on which the time for filing an appeal of the revocation ends; or
342 (b) if the revocation is appealed, the day on which the decision to uphold the
343 revocation becomes final.

344 Section 9. Section 59-14-216 is enacted to read:

345 **59-14-216. Legal Tobacco Age Restricted Account.**

346 (1) There is created within the General Fund a restricted account known as the "Legal
347 Tobacco Age Restricted Account."

348 (2) The account created in Subsection (1) consists of:

349 (a) the cumulative annual growth of revenue from cigarette and tobacco taxes over the
350 amount collected in fiscal year 2018, beginning in fiscal year 2019; and

351 (b) the first \$1,000,000 of annual growth from the gross revenue from the sale of liquor
352 by the Department of Alcoholic Beverage Control, as provided under Title 32B, Chapter 2,
353 Alcoholic Beverage Control Administration Act, over the amount collected in fiscal year 2018,
354 beginning in fiscal year 2019.

355 (3) Upon appropriations by the Legislature, money from the account created in
356 Subsection (1) shall be deposited into the General Fund.

357 (4) The account created in Subsection (1) is repealed on June 30, 2022.

358 Section 10. Section 59-14-301.5 is amended to read:

359 **59-14-301.5. Commission action to suspend or revoke license.**

360 (1) (a) The commission shall suspend or revoke [~~licenses~~] a license to sell tobacco, as
361 required under Section 26-42-103 regarding suspension or revocation of a license due to the
362 sale of tobacco products to a person younger than [~~19~~] 21 years of age, upon receipt of notice
363 of an enforcing agency's order or order of default[~~;~~] finding a violation of Section 26-42-103.

364 (b) The commission shall provide written notice of the suspension or revocation to the
365 licensee.

366 (2) It is the duty of the enforcing agency to advise the commission of any order or order
367 of default finding a violation of Section 26-42-103[~~;~~] for which suspension or revocation of the
368 license is a penalty.

369 (3) When the commission revokes a licensee's license under this section the
370 commission may not issue to the licensee, or to the business entity using the license that is
371 revoked, a license under Section [59-14-202](#) or [59-14-301](#) to sell tobacco at the location for
372 which the license was issued for one year after:

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

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

376 Section 11. Section **59-14-301.6** is enacted to read:

377 **59-14-301.6. Commission action to suspend or revoke license.**

378 (1) (a) The commission shall suspend or revoke a license to sell tobacco, as required
379 under Section [26-42-103](#) regarding suspension or revocation of a license due to the sale of
380 tobacco products to a person younger than 20 years of age, upon receipt of notice of an
381 enforcing agency's order or order of default finding a violation of Section [26-42-103](#).

382 (b) The commission shall provide written notice of the suspension or revocation to the
383 licensee.

384 (2) It is the duty of the enforcing agency to advise the commission of any order or order
385 of default finding a violation of Section [26-42-103](#) for which suspension or revocation of the
386 license is a penalty.

387 (3) When the commission revokes a licensee's license under this section the
388 commission may not issue to the licensee, or to the business entity using the license that is
389 revoked, a license under Section [59-14-202](#) or [59-14-301](#) to sell tobacco at the location for
390 which the license was issued for one year after:

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

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

394 Section 12. Section **63I-1-210** is amended to read:

395 **63I-1-210. Repeal dates, Title 10.**

396 (1) Section [10-8-47.4](#) is repealed December 31, 2018.

397 (2) Section [10-9a-526](#) is repealed December 31, 2020.

398 Section 13. Section **63I-1-226** is amended to read:

399 **63I-1-226. Repeal dates, Title 26.**

400 (1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
401 1, 2025.

402 (2) Section 26-10-11 is repealed July 1, 2020.

403 (3) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed
404 July 1, 2018.

405 (4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

406 (5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2019.

407 (6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2021.

408 (7) Section 26-38-2.5 is repealed July 1, 2017.

409 (8) Section 26-38-2.6 is repealed July 1, 2017.

410 (9) Section 26-42-103.5 is repealed December 31, 2018.

411 [~~9~~] (10) Title 26, Chapter 52, Autism Treatment Account, is repealed July 1, 2016.

412 [~~10~~] (11) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1,
413 2021.

414 Section 14. Section 63I-1-259 is amended to read:

415 **63I-1-259. Repeal dates, Title 59.**

416 (1) Subsection 59-2-924(7) is repealed on December 31, 2016.

417 (2) Subsection 59-2-924.2(9) is repealed on December 31, 2017.

418 (3) Section 59-2-924.3 is repealed on December 31, 2016.

419 (4) Section 59-7-618 is repealed July 1, 2020.

420 (5) Section 59-9-102.5 is repealed December 31, 2020.

421 (6) Section 59-10-1033 is repealed July 1, 2020.

422 (7) Subsection 59-12-2219(13) is repealed on June 30, 2020.

423 (8) Section 59-14-203.6 is repealed December 31, 2018.

424 (9) Section 59-14-216 is repealed June 30, 2022.

425 (10) Section 59-14-301.6 is repealed December 31, 2018.

426 Section 15. Section 63I-1-276 is amended to read:

427 **63I-1-276. Repeal dates, Title 76.**

428 (1) Section 76-10-104.5 is repealed December 31, 2018.

429 (2) Section 76-10-105.2 is repealed December 31, 2018.

430 (3) Section 76-10-105.5 is repealed December 31, 2018.

431 (4) Subsection 76-10-526(15) is repealed July 1, 2018.

432 Section 16. Section **63I-1-277** is amended to read:

433 **63I-1-277. Repeal dates, Title 77.**

434 Section 77-39-101.5 is repealed December 31, 2018.

435 Section 17. Section **76-10-104** is amended to read:

436 **76-10-104. Providing a cigar, cigarette, electronic cigarette, or tobacco to a minor**
437 **-- Penalties.**

438 (1) Any person who knowingly, intentionally, recklessly, or with criminal negligence
439 provides any cigar, cigarette, electronic cigarette, or tobacco in any form[;] to any person under
440 [+9] 21 years of age[;] is guilty of a class C misdemeanor on the first offense, a class B
441 misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses.

442 (2) [~~For purposes of~~] As used in this section, "provides":

443 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

444 (b) does not include the acts of the United States Postal Service or [~~other~~] another
445 common carrier when engaged in the business of transporting and delivering packages for
446 others or the acts of a person, whether compensated or not, who transports or delivers a
447 package for another person without any reason to know of the package's content.

448 Section 18. Section **76-10-104.5** is enacted to read:

449 **76-10-104.5. Providing a cigar, cigarette, electronic cigarette, or tobacco to a**
450 **minor -- Penalties.**

451 (1) Any person who knowingly, intentionally, recklessly, or with criminal negligence
452 provides any cigar, cigarette, electronic cigarette, or tobacco in any form to any person under
453 20 years of age is guilty of a class C misdemeanor on the first offense, a class B misdemeanor
454 on the second offense, and a class A misdemeanor on subsequent offenses.

455 (2) For purposes of this section, "provides":

456 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

457 (b) does not include the acts of the United States Postal Service or another common
458 carrier when engaged in the business of transporting and delivering packages for others or the
459 acts of a person, whether compensated or not, who transports or delivers a package for another
460 person without any reason to know of the package's content.

461 Section 19. Section **76-10-105** is amended to read:

462 **76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco**
463 **by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

464 (1) Any [~~18-year-old~~] person who is 18 years of age or older, but younger than 21 years
465 of age, who buys or attempts to buy, accepts, or has in the person's possession any cigar,
466 cigarette, electronic cigarette, or tobacco in any form is guilty of a class C misdemeanor and
467 subject to:

468 (a) a minimum fine or penalty of \$60; and

469 (b) participation in a court-approved tobacco education program, which may include a
470 participation fee.

471 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
472 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject
473 to the jurisdiction of the juvenile court and:

474 (a) a minimum fine or penalty of \$60; and

475 (b) participation in a court-approved tobacco education program, which may include a
476 participation fee.

477 (3) A compliance officer appointed by a board of education under Section [53A-3-402](#)
478 may issue [~~citations for violations~~] a citation for a violation of this section committed on school
479 property. Cited violations shall be reported to the appropriate juvenile court.

480 Section 20. Section **76-10-105.1** is amended to read:

481 **76-10-105.1. Requirement of direct, face-to-face sale of cigarettes, tobacco, and**
482 **electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.**

483 (1) As used in this section:

484 (a) "Cigarette" means the same as that term is defined in Section [59-14-102](#).

485 (b) (i) "Face-to-face exchange" means a transaction made in person between an
486 individual and a retailer or retailer's employee.

487 (ii) "Face-to-face exchange" does not include a sale through a:

488 (A) vending machine; or

489 (B) self-service display.

490 (c) "Retailer" means a person who:

491 (i) sells a cigarette, tobacco, or an electronic cigarette to an individual for personal
492 consumption; or

493 (ii) operates a facility with a vending machine that sells a cigarette, tobacco, or an
494 electronic cigarette.

495 (d) "Self-service display" means a display of a cigarette, tobacco, or an electronic
496 cigarette to which the public has access without the intervention of a retailer or retailer's
497 employee.

498 (e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

499 (f) "Tobacco specialty shop" means a retailer with a physical location that derives at
500 least 80% of [its] the retailer's total sales from the sale of cigarettes, tobacco, or electronic
501 cigarettes.

502 (2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, or an
503 electronic cigarette only in a face-to-face exchange.

504 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

505 (a) a mail-order, telephone, or Internet sale made in compliance with Section
506 59-14-509;

507 (b) a sale from a vending machine or self-service display that is located in an area of a
508 retailer's facility:

509 (i) that is distinct and separate from the rest of the facility; and

510 (ii) where the retailer only allows an individual who complies with Subsection (4) to be
511 present; or

512 (c) a sale at a tobacco specialty shop.

513 (4) An individual who is less than [19] 21 years old may not enter or be present at a
514 tobacco specialty shop unless the individual is:

515 (a) accompanied by a parent or legal guardian;

516 (b) present at the tobacco shop for a bona fide commercial purpose other than to
517 purchase a cigarette, tobacco, or an electronic cigarette; or

518 (c) 18 years old or older and an active duty member of the United States Armed Forces,
519 as demonstrated by a valid, government-issued military identification card.

520 (5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual
521 into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not allow the
522 individual to purchase a cigarette, tobacco, or an electronic cigarette.

523 (6) A violation of Subsection (2) or (4) is a:

- 524 (a) class C misdemeanor on the first offense;
- 525 (b) class B misdemeanor on the second offense; and
- 526 (c) class A misdemeanor on the third and all subsequent offenses.

527 (7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor
528 under Section [76-10-104](#).

529 (8) (a) Any ordinance, regulation, or rule adopted by the governing body of a political
530 subdivision of the state or by a state agency that affects the sale, placement, or display of
531 cigarettes, tobacco, or electronic cigarettes that is not essentially identical to the provisions of
532 this section and Section [76-10-102](#) is superseded.

533 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use
534 ordinance by a municipal or county government.

535 Section 21. Section **76-10-105.2** is enacted to read:

536 **76-10-105.2. Requirement of direct, face-to-face sale of cigarettes, tobacco, and**
537 **electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.**

538 (1) As used in this section:

539 (a) "Cigarette" means the same as that term is defined in Section [59-14-102](#).

540 (b) (i) "Face-to-face exchange" means a transaction made in person between an
541 individual and a retailer or retailer's employee.

542 (ii) "Face-to-face exchange" does not include a sale through a:

543 (A) vending machine; or

544 (B) self-service display.

545 (c) "Retailer" means a person who:

546 (i) sells a cigarette, tobacco, or an electronic cigarette to an individual for personal
547 consumption; or

548 (ii) operates a facility with a vending machine that sells a cigarette, tobacco, or an
549 electronic cigarette.

550 (d) "Self-service display" means a display of a cigarette, tobacco, or an electronic
551 cigarette to which the public has access without the intervention of a retailer or retailer's
552 employee.

553 (e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

554 (f) "Tobacco specialty shop" means a retailer with a physical location that derives at

555 least 80% of the retailer's total sales from the sale of cigarettes, tobacco, or electronic
556 cigarettes.

557 (2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, or an
558 electronic cigarette only in a face-to-face exchange.

559 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

560 (a) a mail-order, telephone, or Internet sale made in compliance with Section
561 59-14-509;

562 (b) a sale from a vending machine or self-service display that is located in an area of a
563 retailer's facility:

564 (i) that is distinct and separate from the rest of the facility; and

565 (ii) where the retailer only allows an individual who complies with Subsection (4) to be
566 present; or

567 (c) a sale at a tobacco specialty shop.

568 (4) An individual who is less than 20 years old may not enter or be present at a tobacco
569 specialty shop unless the individual is:

570 (a) accompanied by a parent or legal guardian;

571 (b) present at the tobacco shop for a bona fide commercial purpose other than to
572 purchase a cigarette, tobacco, or an electronic cigarette; or

573 (c) 18 years old or older and an active duty member of the United States Armed Forces,
574 as demonstrated by a valid, government-issued military identification card.

575 (5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual
576 into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not allow the
577 individual to purchase a cigarette, tobacco, or an electronic cigarette.

578 (6) A violation of Subsection (2) or (4) is a:

579 (a) class C misdemeanor on the first offense;

580 (b) class B misdemeanor on the second offense; and

581 (c) class A misdemeanor on the third and all subsequent offenses.

582 (7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor
583 under Section 76-10-104.

584 (8) (a) Any ordinance, regulation, or rule adopted by the governing body of a political
585 subdivision of the state or by a state agency that affects the sale, placement, or display of

586 cigarettes, tobacco, or electronic cigarettes that is not essentially identical to the provisions of
587 this section and Section 76-10-102 is superseded.

588 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use
589 ordinance by a municipal or county government.

590 Section 22. Section 76-10-105.5 is enacted to read:

591 **76-10-105.5. Buying or possessing a cigar, cigarette, electronic cigarette, or**
592 **tobacco by a minor -- Penalty -- Compliance officer authority -- Juvenile court**
593 **jurisdiction.**

594 (1) Any person who is 18 or 19 years of age who buys or attempts to buy, accepts, or
595 has in the person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is
596 guilty of a class C misdemeanor and subject to:

597 (a) a minimum fine or penalty of \$60; and

598 (b) participation in a court-approved tobacco education program, which may include a
599 participation fee.

600 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
601 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject
602 to the jurisdiction of the juvenile court and:

603 (a) a minimum fine or penalty of \$60; and

604 (b) participation in a court-approved tobacco education program, which may include a
605 participation fee.

606 (3) A compliance officer appointed by a board of education under Section 53A-3-402
607 may issue a citation for a violation of this section committed on school property. Cited
608 violations shall be reported to the appropriate juvenile court.

609 Section 23. Section 77-39-101 is amended to read:

610 **77-39-101. Investigation of sales of alcohol, tobacco, and electronic cigarettes to**
611 **underage persons.**

612 (1) As used in this section, "electronic cigarette" [~~is-as~~] means the same as that term is
613 defined in Section 76-10-101.

614 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer
615 Classifications, may investigate the possible violation of:

616 (i) Section 32B-4-403 by requesting an individual under the age of 21 years to enter

617 into and attempt to purchase or make a purchase of alcohol from a retail establishment; or

618 (ii) Section 76-10-104 by requesting an individual under the age of [~~19~~] 21 years to
619 enter into and attempt to purchase or make a purchase from a retail establishment of:

620 (A) a cigar;

621 (B) a cigarette;

622 (C) tobacco in any form; or

623 (D) an electronic cigarette.

624 (b) A peace officer who is present at the site of a proposed purchase shall direct,
625 supervise, and monitor the individual requested to make the purchase.

626 (c) Immediately following a purchase or attempted purchase or as soon as practical the
627 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
628 establishment that the attempted purchaser was under the legal age to purchase:

629 (i) alcohol; or

630 (ii) (A) a cigar;

631 (B) a cigarette;

632 (C) tobacco in any form; or

633 (D) an electronic cigarette.

634 (d) If a citation or information is issued, [~~it~~] the citation or information shall be issued
635 within seven days of the purchase.

636 (3) (a) If an individual under the age of 18 years old is requested to attempt a purchase
637 under this section, a written consent of that individual's parent or guardian shall be obtained
638 prior to that individual participating in any attempted purchase.

639 (b) An individual requested by the peace officer to attempt a purchase may:

640 (i) be a trained volunteer; or

641 (ii) receive payment, but may not be paid based on the number of successful purchases
642 of alcohol, tobacco, or an electronic cigarette.

643 (4) The individual requested by the peace officer to attempt a purchase and anyone
644 accompanying the individual attempting a purchase may not during the attempted purchase
645 misrepresent the age of the individual by false or misleading identification documentation in
646 attempting the purchase.

647 (5) An individual requested to attempt to purchase or make a purchase pursuant to this

648 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
649 purchase of, or possession of alcohol, a cigar, a cigarette, tobacco in any form, or an electronic
650 cigarette if a peace officer directs, supervises, and monitors the individual.

651 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
652 shall be conducted:

653 (i) on a random basis; and

654 (ii) within a 12-month period at any one retail establishment location not more often
655 than:

656 (A) four times for the attempted purchase of:

657 (I) a cigar;

658 (II) a cigarette;

659 (III) tobacco in any form; or

660 (IV) an electronic cigarette; and

661 (B) four times for the attempted purchase of alcohol.

662 (b) [~~Nothing in this section shall~~] This section does not prohibit an investigation under
663 this section if:

664 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
665 cigar, a cigarette, tobacco in any form, or an electronic cigarette to an individual under the age
666 established by Section [32B-4-403](#) or [76-10-104](#); and

667 (ii) the supervising peace officer makes a written record of the grounds for the
668 reasonable suspicion.

669 (7) (a) The peace officer exercising direction, supervision, and monitoring of the
670 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
671 was made.

672 (b) The report required by this Subsection (7) shall include:

673 (i) the name of the supervising peace officer;

674 (ii) the name of the individual attempting the purchase;

675 (iii) a photograph of the individual attempting the purchase showing how that
676 individual appeared at the time of the attempted purchase;

677 (iv) the name and description of the cashier or proprietor from whom the individual
678 attempted the purchase;

679 (v) the name and address of the retail establishment; and

680 (vi) the date and time of the attempted purchase.

681 Section 24. Section **77-39-101.5** is enacted to read:

682 **77-39-101.5. Investigation of sales of alcohol, tobacco, and electronic cigarettes to**
683 **underage persons.**

684 (1) As used in this section, "electronic cigarette" means the same as that term is defined
685 in Section 76-10-101.

686 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer
687 Classifications, may investigate the possible violation of:

688 (i) Section 32B-4-403 by requesting an individual under the age of 21 years to enter
689 into and attempt to purchase or make a purchase of alcohol from a retail establishment; or

690 (ii) Section 76-10-104 by requesting an individual under the age of 20 years to enter
691 into and attempt to purchase or make a purchase from a retail establishment of:

692 (A) a cigar;

693 (B) a cigarette;

694 (C) tobacco in any form; or

695 (D) an electronic cigarette.

696 (b) A peace officer who is present at the site of a proposed purchase shall direct,
697 supervise, and monitor the individual requested to make the purchase.

698 (c) Immediately following a purchase or attempted purchase or as soon as practical the
699 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
700 establishment that the attempted purchaser was under the legal age to purchase:

701 (i) alcohol; or

702 (ii) (A) a cigar;

703 (B) a cigarette;

704 (C) tobacco in any form; or

705 (D) an electronic cigarette.

706 (d) If a citation or information is issued, the citation or information shall be issued
707 within seven days of the purchase.

708 (3) (a) If an individual under the age of 18 years old is requested to attempt a purchase,
709 a written consent of that individual's parent or guardian shall be obtained prior to that

710 individual participating in any attempted purchase.

711 (b) An individual requested by the peace officer to attempt a purchase may:

712 (i) be a trained volunteer; or

713 (ii) receive payment, but may not be paid based on the number of successful purchases

714 of alcohol, tobacco, or an electronic cigarette.

715 (4) The individual requested by the peace officer to attempt a purchase and anyone

716 accompanying the individual attempting a purchase may not during the attempted purchase

717 misrepresent the age of the individual by false or misleading identification documentation in

718 attempting the purchase.

719 (5) An individual requested to attempt to purchase or make a purchase pursuant to this

720 section is immune from prosecution, suit, or civil liability for the purchase of, attempted

721 purchase of, or possession of alcohol, a cigar, a cigarette, tobacco in any form, or an electronic

722 cigarette if a peace officer directs, supervises, and monitors the individual.

723 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section

724 shall be conducted:

725 (i) on a random basis; and

726 (ii) within a 12-month period at any one retail establishment location not more often

727 than:

728 (A) four times for the attempted purchase of a cigar, a cigarette, tobacco in any form,

729 or an electronic cigarette; and

730 (B) four times for the attempted purchase of alcohol.

731 (b) Nothing in this section shall prohibit an investigation under this section if:

732 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a

733 cigar, a cigarette, tobacco in any form, or an electronic cigarette to an individual under the age

734 established by Section [32B-4-403](#) or [76-10-104](#); and

735 (ii) the supervising peace officer makes a written record of the grounds for the

736 reasonable suspicion.

737 (7) (a) The peace officer exercising direction, supervision, and monitoring of the

738 attempted purchase shall make a report of the attempted purchase, whether or not a purchase

739 was made.

740 (b) The report required by this Subsection (7) shall include:

- 741 (i) the name of the supervising peace officer;
- 742 (ii) the name of the individual attempting the purchase;
- 743 (iii) a photograph of the individual attempting the purchase showing how that
- 744 individual appeared at the time of the attempted purchase;
- 745 (iv) the name and description of the cashier or proprietor from whom the individual
- 746 attempted the purchase;
- 747 (v) the name and address of the retail establishment; and
- 748 (vi) the date and time of the attempted purchase.
- 749 **Section 25. Effective date.**
- 750 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2018.
- 751 (2) The following sections take effect on January 1, 2019:
- 752 (a) Section [10-8-47](#);
- 753 (b) Section [26-42-103](#);
- 754 (c) Section [76-10-104](#);
- 755 (d) Section [76-10-105](#); and
- 756 (e) Section [77-39-101](#).

Legislative Review Note
Office of Legislative Research and General Counsel