

## HB0324S01 compared with HB0324

~~{deleted text}~~ shows text that was in HB0324 but was deleted in HB0324S01.

Inserted text shows text that was not in HB0324 but was inserted into HB0324S01.

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Representative Bradley G. Last proposes the following substitute bill:

### TOBACCO REGULATIONS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley G. Last**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill establishes new requirements for the licensing of a tobacco retailer and amends the definition of smoking.

##### Highlighted Provisions:

This bill:

- ▶ amends municipal and county business license practices for a retail tobacco specialty business;
- ▶ amends the definition of smoking in the Utah Indoor Clean Air Act;
- ▶ requires a tobacco retailer to obtain a permit from the local health department;
- ▶ establishes requirements for a tobacco retail permit application;
- ▶ establishes the standards that a local health department shall apply when determining whether to issue a permit to a tobacco retailer;

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- ▶ incorporates civil penalties for tobacco sales to underage persons into the provisions relating to a tobacco retail permit:
- ▶ provides penalties for violations of tobacco permitting requirements; and
- ▶ changes the fee provisions for certain tax commission licenses for cigarettes, tobacco products, and electronic cigarette products.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

- 10-8-41.6, as enacted by Laws of Utah 2012, Chapter 154
- 17-50-333, as enacted by Laws of Utah 2012, Chapter 154
- 26-38-2, as last amended by Laws of Utah 2017, Chapter 455
- ~~{ 26-42-102, as last amended by Laws of Utah 2015, Chapter 132~~
- ~~26-42-103, as last amended by Laws of Utah 2015, Chapter 132~~
- ~~26-42-104, as last amended by Laws of Utah 2008, Chapter 382~~
- ~~26-42-105, as enacted by Laws of Utah 1998, Chapter 319~~
- ~~26-42-106, as enacted by Laws of Utah 1998, Chapter 319~~
- ~~26-42-107, as last amended by Laws of Utah 2015, Chapter 132~~
- + 59-14-201, as last amended by Laws of Utah 2013, Chapter 148
- 59-14-803, as enacted by Laws of Utah 2015, Chapter 132
- 76-10-105.1, as last amended by Laws of Utah 2015, Chapters 66 and 132
- 77-39-101, as last amended by Laws of Utah 2010, Chapters 114 and 276

ENACTS:

- 26-62-101, Utah Code Annotated 1953
- ~~{ 26-62-102, Utah Code Annotated 1953~~
- + 26-62-103, Utah Code Annotated 1953
- 26-62-201, Utah Code Annotated 1953
- 26-62-202, Utah Code Annotated 1953
- 26-62-203, Utah Code Annotated 1953

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26-62-204, Utah Code Annotated 1953

26-62-205, Utah Code Annotated 1953

26-62-301, Utah Code Annotated 1953

~~{ 26-62-302, Utah Code Annotated 1953~~

} 26-62-303, Utah Code Annotated 1953

~~{26-62-304, Utah Code Annotated 1953~~

~~— 26-62-305, Utah Code Annotated 1953~~

~~— 26-62-306, Utah Code Annotated 1953~~

~~— 26-62-307, Utah Code Annotated 1953~~

~~— }26A-1-128, Utah Code Annotated 1953~~

### RENUMBERS AND AMENDS:

26-62-102, (Renumbered from 26-42-102, as last amended by Laws of Utah 2015, Chapter 132)

26-62-302, (Renumbered from 26-42-104, as last amended by Laws of Utah 2008, Chapter 382)

26-62-304, (Renumbered from 26-42-105, as enacted by Laws of Utah 1998, Chapter 319)

26-62-305, (Renumbered from 26-42-103, as last amended by Laws of Utah 2015, Chapter 132)

26-62-306, (Renumbered from 26-42-106, as enacted by Laws of Utah 1998, Chapter 319)

26-62-307, (Renumbered from 26-42-107, as last amended by Laws of Utah 2015, Chapter 132)

### REPEALS:

26-42-101, as enacted by Laws of Utah 1998, Chapter 319

59-14-203.5, as last amended by Laws of Utah 2011, Chapter 96

59-14-301.5, as last amended by Laws of Utah 2011, Chapter 96

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

Section 1. Section **10-8-41.6** is amended to read:

**10-8-41.6. Regulation of retail tobacco specialty business.**

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- (1) As used in this section:
- (a) "Community location" means:
- (i) a public or private kindergarten, elementary, middle, junior high, or high school;
  - (ii) a licensed child-care facility or preschool;
  - (iii) a trade or technical school;
  - (iv) a church;
  - (v) a public library;
  - (vi) a public playground;
  - (vii) a public park;
  - (viii) a youth center or other space used primarily for youth oriented activities;
  - (ix) a public recreational facility; ~~[or]~~
  - (x) a public arcade~~[-];~~ or
  - (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Local health department" means the same as that term is defined in Section 26A-1-102.

(d) "Permittee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

~~[(b)]~~ (e) "Retail tobacco specialty business" means a commercial establishment in which:

~~[(i)]~~ (i) the sale of tobacco products accounts for more than 35% of the total annual gross receipts for the establishment; ~~[(ii)]~~

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

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

~~[(ii)]~~ (ii) the name of the business evidences the business as a retail tobacco specialty business;

~~[(iii)]~~ (iii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products;

~~[(iii)]~~ (iv) 20% or more of the total shelf space is allocated to the offer, display, or

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storage of tobacco products; or

~~(fiv)y~~) the retail space features a self-service display for tobacco products.

(f) "Self-service display" means the same as that term is defined in Section

76-10-105.1.

~~(e)~~ (g) "Tobacco product" means:

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

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

(A) chewing tobacco; or

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

and

(iii) tobacco paraphernalia, as that term is defined in Section 76-10-104.1.

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

~~[(3)(a) Except as provided in Subsection (7), and beginning July 1, 2012, a municipality shall require an entity to be licensed as a retail tobacco specialty business to conduct business as a retail tobacco specialty business in a municipality.]~~

(3) (a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to ~~[an entity]~~ a person if the ~~[entity]~~ person complies with the provisions of ~~[Subsection]~~ Subsections (4) and (5).

~~[(4) Except as provided in Subsection (7), and beginning July 1, 2012, a business entity that conducts a retail tobacco specialty business in a municipality shall be licensed by the municipality as a retail tobacco specialty business.]~~

~~[(5)]~~ (4) (a) [A] Except as provided in Subsection (7), a municipality may not issue a license [to] for a person to conduct business as a retail tobacco specialty business if [it] the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

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(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection ~~[(5)]~~ (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of ~~[the community location, or agricultural or residential use]~~ a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(ii) a valid license to sell tobacco products from the State Tax Commission.

(b) A person that was licensed to conduct business as a retail tobacco specialty business in a municipality before July 1, 2018, shall obtain a permit from a local health department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.

(6) (a) Nothing in this section:

(i) requires a municipality to issue a ~~[business license to a]~~ retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business ~~[than provided for in this section]~~.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United

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States Food and Drug Administration, 21 C.F.R. Part 1140; [or]

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco Retail Permit; or

~~[(iii)]~~ (iv) under any other [provisions] provision of state law or local ordinance.

(7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business ~~[that has a business license and is operating lawfully in a municipality on or before May 8, 2012, is exempt from Subsections (4) and (5).]~~ is exempt from Subsection (4) if:

~~—— (i) the person obtained the license to operate the retail tobacco specialty business before July 1, 2018;~~

~~—— (ii) the retail tobacco specialty business is operating lawfully in the municipality that issued the retail tobacco specialty business license; and~~

~~—— (iii) the retail tobacco specialty business was operating lawfully when the license described in Subsection (7)(a)(i) was issued.~~

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

(i) the retail tobacco specialty business license is renewed continuously without ~~[relapse]~~ lapse or permanent revocation;

(ii) the retail tobacco specialty business ~~[is]~~ does not [closed] close for business or otherwise ~~[suspends]~~ suspend the sale of tobacco products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or ~~[its]~~ business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances[;];

(C) building codes[;]; and [the]

(D) the requirements of a retail tobacco specialty business license issued [prior to] before May 8, 2012.

Section 2. Section **17-50-333** is amended to read:

### **17-50-333. Regulation of retail tobacco specialty business.**

(1) As used in this section:

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(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility; ~~or~~

(x) a public arcade~~[-]; or~~

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(d) "Local health department" means the same as that term is defined in Section 26A-1-102.

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

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

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

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

~~(ii)~~ (ii) the name of the business evidences the business as a retail tobacco specialty business;

~~(iii)~~ (iii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products;

~~(iii)~~ (iv) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products; or



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~~(fiv)~~v) the retail space features a self-service display for tobacco products.

(f) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

~~(e)~~ (g) "Tobacco product" means:

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

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

(A) chewing tobacco; or

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

and

(iii) tobacco paraphernalia as that term is defined in Section 76-10-104.1.

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

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

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to ~~[an entity]~~ a person if the ~~[entity]~~ person complies with the provisions of ~~[Subsection]~~ Subsections (4) and (5).

~~[(4) Except as provided in Subsection (7), and beginning July 1, 2012, a business entity that conducts a retail tobacco specialty business in a county shall be licensed by the county as a retail tobacco specialty business.]~~

~~[(5)]~~ (4) (a) ~~[A]~~ Except as provided in Subsection (7), a county may not issue a license [to] for a person to conduct business as a retail tobacco specialty business if [it] the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

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(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection ~~[(5)]~~ (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of ~~[the community location, or agricultural or residential use]~~ a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(ii) a valid license to sell tobacco products from the State Tax Commission.

(b) A person that was licensed to conduct business as a retail tobacco specialty business in a county before July 1, 2018, shall obtain a permit from a local health department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.

(6) (a) Nothing in this section:

(i) requires a county to issue a ~~[business license to a]~~ retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business ~~[than provided for in this section]~~.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; ~~[or]~~

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(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco Retail Permit; or

~~[(iii)]~~ (iv) under any other [provisions] provision of state law or local ordinance.

(7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business ~~[that has a business license and is operating lawfully in a county on or before May 8, 2012, is exempt from Subsections (4) and (5);]~~ is exempt from Subsection (4) if:

~~—— (i) } the person obtained the license to operate the retail tobacco specialty business before July 1, 2018;~~

~~—— (ii) the retail tobacco specialty business is operating lawfully in the county that issued the retail tobacco specialty business license; and~~

~~—— (iii) the retail tobacco specialty business was operating lawfully when the license described in Subsection (7)(a)(i) was issued}.~~

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

(i) the retail tobacco specialty business license is renewed continuously without ~~[relapse]~~ lapse or permanent revocation;

(ii) the retail tobacco specialty business ~~[is]~~ does not [closed] close for business or otherwise ~~[suspends]~~ suspend the sale of tobacco products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or ~~[its]~~ business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances[;];

(C) building codes[;]; and [the]

(D) the requirements of a retail tobacco specialty business license issued [prior to] before May 8, 2012.

Section 3. Section **26-38-2** is amended to read:

### **26-38-2. Definitions.**

As used in this chapter:

(1) "E-cigarette":

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(a) means any electronic oral device:

(i) that provides an aerosol or a vapor of nicotine or other substance; and

(ii) which simulates smoking through its use or through inhalation of the device; and

(b) 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) e-cigar;

(C) e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the

definition of Subsection (1)(a).

(2) "Non-tobacco shisha" means any product that:

(a) does not contain tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

~~(2)~~ (3) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

(a) buildings, offices, shops, elevators, or restrooms;

(b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;

(d) taverns as defined in Section 32B-1-102, or cabarets;

(e) shopping malls, retail stores, grocery stores, or arcades;

(f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;

(g) barber shops, hair salons, or laundromats;

(h) sports or fitness facilities;

(i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;

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(j) (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and

(ii) any child care, other than child care as defined in Section 26-39-102, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;

(k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;

(l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or their guests or families;

(m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

(n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;

(o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and

(p) a holder of a bar establishment license, as defined in Section 32B-1-102.

~~[(3)]~~ (4) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

(5) "Shisha" means any product that:

(a) contains tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

~~[(4)]~~ (6) "Smoking" means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or ~~[heating a substance containing tobacco or nicotine intended for inhalation through a]~~ carrying any lighted or heated cigar, cigarette, pipe, or hookah[;] that contains:

(i) tobacco or any plant product intended for inhalation;

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- (ii) shisha or non-tobacco shisha;
- (iii) nicotine;
- (iv) a natural or synthetic tobacco substitute; or
- (v) a natural or synthetic flavored tobacco product;
- (c) [~~except as provided in Section 26-38-2.6;~~] using an e-cigarette; or
- (d) using an oral smoking device intended to circumvent the prohibition of smoking in this chapter.

Section 4. Section ~~{26-42-102}~~26-62-101 is enacted to read:

### CHAPTER 62. TOBACCO RETAIL PERMIT

#### Part 1. General Provisions

##### 26-62-101. Title.

This chapter is known as "Tobacco Retail Permit."

Section 5. Section 26-62-102, which is renumbered from Section 26-42-102 is renumbered and amended to read:

##### ~~26-42-102~~. ~~{Definitions}~~ 26-62-102. Definitions.

As used in this chapter:

[~~(1) "Commission" means the Utah State Tax Commission;~~]

~~{(2)}~~ ~~(1)~~ (1) "Community location" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

(2) "Employee" means an employee of a [licensee] ~~{permittee}~~ tobacco retailer.

~~{(3)}~~ ~~{(2)}~~ "Enforcing agency" means the ~~{(3)}~~ state Department of Health, ~~{department}~~ or any local health department enforcing the provisions of this chapter.

[~~(4) "Licensee" means a person licensed:~~]

[~~(a) under Section 59-14-201 to sell cigarettes at retail;~~]

[~~(b) under Section 59-14-301 to sell tobacco products at retail; or~~]

[~~(c) under Section 59-14-803 to sell an electronic cigarette product.~~]

~~{(5)}~~ (4) "{License to sell tobacco" or "license" means a license issued:

~~— [(a) under Section 59-14-201 to sell cigarettes at retail;]~~

~~— [(b) under Section 59-14-301 to sell tobacco products at retail; or]~~

~~— [(c) under Section 59-14-803 to sell an electronic cigarette product.]~~

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~~(3)~~ "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.

(5) "Local health department" means the same as that term is defined in Section 26A-1-102.

~~(4)~~ (6) "Permittee Permit" means a tobacco retailer to whom a local health department issues a retail permit issued under Chapter 62, Tobacco Retail Permit.

~~(6)~~ (5) this chapter.

(7) "Retail tobacco specialty business" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

~~(5)~~ (8) ["License to sell tobacco" or "license"] "Tax commission license" means a license issued by the State Tax Commission under:

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

(b) under Section 59-14-301 to sell tobacco products at retail; or

(c) under Section 59-14-803 to sell an electronic cigarette product.

~~(6)~~ "Tobacco" means:

~~(a) a cigarette or a tobacco product, as those terms are defined in Section 59-14-102; or~~

~~(b) an electronic cigarette product, as that term is defined in Section 59-14-802.~~

~~(6)~~

(9) "Tobacco product" means:

(a) a cigar, cigarette, or electronic cigarette as those terms are defined in Section 76-10-101;

(b) a tobacco product as that term is defined in Section 59-14-102, including:

(i) chewing tobacco; or

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

(c) tobacco paraphernalia as that term is defined in Section 76-10-104.1.

(10) "Tobacco retailer" means a permit issued under Chapter 62, Tobacco Retail Permit.

~~Section 5. Section 26-42-103 is amended to read:~~

~~26-42-103. Violations and penalties:~~

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

~~\_\_\_\_\_ (a) upon the first violation, a penalty of [not more than \$300] \$500;~~

~~\_\_\_\_\_ (b) upon a second violation at the same retail location, and within 12 months [of] after the first violation, a penalty of [not more than \$750] \$1,000; and~~

~~\_\_\_\_\_ (c) upon a third or subsequent violation at the same retail location and within 12 months [of] after the first violation, a penalty of [not more than \$1,000] \$2,000.~~

~~\_\_\_\_\_ [(2) The enforcing agency shall notify the commission in writing of any order or order of default finding a violation of Subsection (1) which is a third or fourth violation.]~~

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

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

~~\_\_\_\_\_ [(b) by revoking the license to sell tobacco at that location held by the licensee, including any license under suspension, upon receipt of notification of a fourth violation under Subsection (1)(c).]~~

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

~~\_\_\_\_\_ [(a) the day on which the time for filing an appeal of the revocation ends; or]~~

~~\_\_\_\_\_ [(b) if the revocation is appealed, the day on which the decision to uphold the revocation becomes final.]~~

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

~~\_\_\_\_\_ (2) The department or a local health department may suspend or revoke a permit issued~~



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~~under Chapter 62, Tobacco Retail Permit, if a fourth violation occurs at the same retail location within 24 months after the day on which the first violation occurred.~~

~~Section 6. Section 26-42-104 is amended to read:~~

~~26-42-104. Enforcement by state and local health departments.~~

~~The [state Department of Health] department and } person that is required to obtain a tax commission license.~~

Section 6. Section 26-62-103 is enacted to read:

26-62-103. Regulation of tobacco retailers.

The regulation of a tobacco retailer is an exercise of the police powers of the state, and through delegation, to other governmental entities.

Section 7. Section 26-62-201 is enacted to read:

### Part 2. Permit Requirements

26-62-201. Permitting requirement.

(1) (a) Beginning July 1, 2018, a tobacco retailer shall hold a valid tobacco retail permit issued in accordance with this chapter by the local health {departments shall enforce} department with jurisdiction over the physical location where the tobacco retailer operates.

(b) A tobacco retailer without a valid permit may not:

(i) place tobacco products in public view;

(ii) display any advertisement related to tobacco products that promotes the sale, distribution, or use of those products; or

(iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco or tobacco products.

(2) A local health department may issue a permit under this chapter for a tobacco retailer in the classification of:

(a) a general tobacco retailer; or

(b) a retail tobacco specialty business.

(3) A permit under this chapter is:

(a) valid only for one physical location, including a vending machine;

(b) valid only at one fixed business address; and

(c) if multiple tobacco retailers are at the same address, separately required for each

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tobacco retailer.

(4) Notwithstanding the requirement in Subsection (1), a person that holds a tax commission license that was valid on July 1, 2018:

(a) may operate without a permit under this chapter {under the procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative proceeding, including:

—— (1) notifying [licensees] a permittee of alleged violations of Section 26-42-103;

—— (2) conducting hearings;

—— (3) determining violations of this chapter; and

—— (4) imposing civil [monetary] administrative penalties;

—— Section 7. Section 26-42-105 is amended to read:

—— **26-42-105. Hearing -- Evidence of criminal conviction.**

—— (1) At a civil hearing conducted under Section 26-42-104, evidence of the final criminal conviction of a [licensee] permittee or employee for violation of Section 76-10-104 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of Section 26-42-103 is prima facie evidence of a violation of Section 26-42-103;

—— (2) If the [licensee] permittee has been convicted of violating Section 76-10-104 prior to a finding of a violation of Section 26-42-103, the [licensee] permittee may not be assessed a monetary penalty; until December 31, 2018; and

(b) shall obtain a permit from a local health department under this chapter before January 1, 2019.

Section 8. Section 26-62-202 is enacted to read:

**26-62-202. Permit application.**

(1) A local health department shall issue a permit under this chapter for {the same offense for which the conviction was obtained.

—— Section 8. Section 26-42-106 is amended to read:

—— **26-42-106. Recognition of permittee's training program.**

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

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~~(a) the [licensee] permittee has implemented a documented employee training program;~~  
and

~~(b) the employee has completed that training program within 30 days [of commencing] after the employee commences duties of selling}~~ a tobacco retailer if the local health department determines that the applicant:

(a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and

(b) meets all requirements for a permit under this chapter.

(2) An applicant for a permit shall:

(a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and

(b) pay all applicable fees described in Section 26-62-203.

(3) The application for a permit shall include:

(a) the name, address, and telephone number of each proprietor;

(b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;

(c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;

(d) evidence that the location for which a permit is sought has a valid tax commission license;

(e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:

(i) a provision of this chapter;

(ii) Chapter 38, Utah Indoor Clean Air Act;

(iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical

Solvents;

(iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

(vi) any other provision of state law or local ordinance regarding the sale, marketing, or

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distribution of tobacco products;

~~— (2) (a) If the hearing officer determines;~~ and

(f) the dates of all violations disclosed under this Subsection (3).

(4) (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet of property used or zoned for agricultural or residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (1), regarding a first offense at a location, that the [licensee] permittee has not implemented a documented training program with a written curriculum for employees at that location regarding compliance;~~4) if the person obtained a license to operate the retail tobacco specialty business before July 1, 2018, from:~~

(a) a municipality under Section 10-8-41.6; or

(b) a county under Section 17-50-333.

(6) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this chapter;~~; the hearing officer may suspend all or a portion of the monetary penalty, contingent upon the [licensee's] permittee's initiating a training program for employees at that location within 30 days after the hearing date.~~

~~— (b) If the hearing officer determines at a subsequent hearing that the [licensee] permittee has not implemented the training program within the time period required~~;

(b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

Section 9. Section 26-62-203 is enacted to read:

26-62-203. Permit term and fees.

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(1) (a) The term of a permit issued under this chapter to a retail tobacco specialty business is one year.

(b) The term of a permit issued under this chapter to a general tobacco retailer is two years.

(2) (a) A local health department may not issue a permit under this chapter until the applicant has paid a permit fee to the local health department of:

(i) \$30 for a new permit;

(ii) \$20 for a permit renewal; or

(iii) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to expire.

(b) A local health department that collects fees under Subsection (2)(a) ~~4, 5~~ shall use the fees to administer the permit requirements under this chapter.

(c) In addition to the fee described in Subsection (2)(a), a local health department may establish and collect a fee to perform a plan review for a retail tobacco specialty business permit.

(3) A permit holder may apply for a renewal of a permit no earlier than 30 days before the day on which the permit expires.

(4) A tobacco retailer that fails to renew a permit before the permit expires may apply to reinstate the permit by submitting to the local health department:

(a) the information required in Subsection 26-62-202(3) and, if applicable, Subsection 26-62-202(4);

(b) the fee for the reinstatement of a permit; and

(c) a signed affidavit affirming that the tobacco retailer has not violated the prohibitions in Subsection 26-62-201(1)(b) after the permit expired.

Section 10. Section 26-62-204 is enacted to read:

### **26-62-204. Permit nontransferable.**

(1) A permit is nontransferable.

(2) If the information described in Subsection 26-62-202(3) changes, a tobacco retailer:

(a) may not renew the permit; and

(b) shall apply for a new permit no later than 15 days after the information in Subsection 26-62-202(3) changes.

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Section 11. Section 26-62-205 is enacted to read:

### **26-62-205. Permit requirements for a retail tobacco specialty business.**

A retail tobacco specialty business shall:

- (1) except as provided in Subsection 76-10-105.1(4), prohibit any individual under 19 years of age from entering the business; and
- (2) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates the prohibition in Subsection 76-10-105.1(4).

Section 12. Section 26-62-301 is enacted to read:

### **Part 3. Enforcement**

#### **26-62-301. Permit violation.**

A person is in violation of the permit issued under this chapter if the person violates:

- (1) a provision of this chapter;
- (2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;
- (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;
- (4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
- (6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of tobacco products.

Section 13. Section 26-62-302, which is renumbered from Section 26-42-104 is renumbered and amended to read:

~~[26-42-104].~~      **26-62-302. Enforcement by state and local health departments.**

The [state Department of Health and the] department and local health departments shall enforce this chapter under the procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative proceeding, including:

- (1) notifying [licensees] a tobacco retailer of alleged violations of [Section 26-42-103] this chapter;
- (2) conducting hearings;
- (3) determining violations of this chapter; and

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(4) imposing civil [monetary] administrative penalties.

Section 14. Section 26-62-303 is enacted to read:

### **26-62-303. Inspection of retail tobacco businesses.**

The department or a local health department may inspect a tobacco retailer to determine whether the tobacco retailer:

(1) continues to meet the qualifications for the permit issued under this chapter;

(2) if applicable, continues to meet the requirements for a retail tobacco specialty business license issued under Section 10-8-41.6 or Section 17-50-333;

(3) engaged in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(4) violated any of the regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

(5) has violated any other provision of state law or local ordinance.

Section 15. Section 26-62-304, which is renumbered from Section 26-42-105 is renumbered and amended to read:

### **[26-42-105]. 26-62-304. Hearing -- Evidence of criminal conviction.**

(1) At a civil hearing conducted under Section [26-42-104] 26-62-302, evidence of the final criminal conviction of a [licensee] tobacco retailer or employee for violation of Section 76-10-104 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of [Section 26-42-103] this chapter for sale of tobacco products to a person under the age of 19 is prima facie evidence of a violation of [Section 26-42-103] this chapter.

(2) If the [licensee has been] tobacco retailer is convicted of violating Section 76-10-104 [prior to a finding of a violation of Section 26-42-103, the licensee], the enforcing agency:

(a) may not [be assessed a] assess an additional monetary penalty under this chapter for the same offense for which the conviction was obtained[-]; and

(b) may revoke or suspend a permit in accordance with Section 26-62-305.

Section 16. Section 26-62-305, which is renumbered from Section 26-42-103 is renumbered and amended to read:

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### ~~[26-42-103].~~ 26-62-305. Penalties.

~~(1) (a) If, following an inspection by an enforcing agency, or an investigation or issuance of a citation or information under Section 77-39-101, an enforcing agency determines [under Section 26-42-104 that a licensee or any employee has sold tobacco to a person younger than 19 years of age, as prohibited by Section 76-10-104,] that a person has violated the terms of a permit issued under this chapter, the enforcing agency may impose [upon the licensee the following administrative penalties:] the penalties described in this section.~~

~~(b) If multiple violations are found in a single inspection or investigation, only one violation shall count toward the penalties described in this section.~~

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

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

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

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

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

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

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

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

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

~~[(b) if the revocation is appealed, the day on which the decision to uphold the revocation becomes final.]~~

~~[(5) This section does not prevent any bona fide purchaser of the business, who is not a~~



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sole proprietor, director, corporate officer, or partner or other holder of significant interest in the entity selling the business, from immediately applying for and obtaining a license to sell tobacco:]

(2) (a) The administrative penalty for a first violation at a retail location is a penalty of not more than \$500.

(b) The administrative penalty for a second violation at the same retail location that occurs within one year of a previous violation is a penalty of not more than \$750.

(c) The administrative penalty for a third or subsequent violation at the same retail location that occurs within two years after two or more previous violations is:

(i) a suspension of the retail tobacco business permit for 30 consecutive business days within 60 days after the day on which the third or subsequent violation occurs; or

(ii) a penalty of not more than \$1,000.

(3) The department or a local health department may:

(a) revoke a permit if a fourth violation occurs within two years of three previous violations;

(b) in addition to a monetary penalty imposed under Subsection (2), suspend the permit if the violation is due to a sale of tobacco products to a person under 19 years of age; and

(c) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

(4) (a) Except when a transfer described in Subsection (5) occurs, a local health department may not issue a permit to:

(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (3);

or

(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (3).

(b) A person whose permit:

(i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and

(ii) is revoked may not apply for a new permit for any tobacco retailer for a period of

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24 months after the day on which an enforcing agency revokes the permit.

(5) Violations of this chapter, Section 10-8-41.6, or Section 17-50-333 that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:

(a) the tobacco retailer is transferred to a new proprietor; and

(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

Section 17. Section 26-62-306, which is renumbered from Section 26-42-106 is renumbered and amended to read:

~~[26-42-106].~~            **26-62-306. Recognition of tobacco retailer training program.**

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

(a) the [~~licensee~~] tobacco retailer has implemented a documented employee training program; and

(b) the [~~employee has~~] employees have completed that training program within 30 days [~~of commencing~~] after the day on which each employee commences the duties of selling tobacco products.

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

(i) the tobacco retailer agrees to initiate a training program for employees at that location; and

(ii) the training program begins within 30 days after the hearing officer makes a determination under this Subsection (2)(a).

(b) If the hearing officer determines at a subsequent hearing that the [~~licensee~~] tobacco retailer has not implemented the training program within the time period required under Subsection (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty

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~~[shall be promptly imposed]~~, unless the [licensee] ~~{permittee}~~tobacco retailer demonstrates good cause for ~~[granting]~~ an extension of time for implementation of the training program.

Section ~~{9. Section 26-42-107 is}~~18. Section 26-62-307, which is renumbered from Section 26-42-107 is renumbered and amended to read:

~~[26-42-107]. {Allocation}~~ 26-62-307. Allocation of civil penalties.

Civil monetary penalties collected under this chapter shall be allocated as follows:

(1) if a local health department conducts an adjudicative proceeding under Section ~~[26-42-104]~~26-62-302, the penalty shall be paid to the treasurer of the county in which the violation was committed, and transferred to~~;~~{

~~\_\_\_\_\_}{a){}}~~ the local health department ~~[if it conducts a civil hearing under Section 26-42-104 alone; or]; and~~

~~\_\_\_\_\_}{b) in equal portions to the local health department and the other agencies that participated in the hearing process; {and}}~~

(2) if the ~~[state Department of Health]~~ department conducts a civil hearing under Section ~~[26-42-104]~~26-62-302, the penalty shall be deposited in the state's General Fund, and may be appropriated by the Legislature to the ~~[state Department of Health]~~ department for use in enforcement of this chapter~~;~~and.

~~[(3) if the civil penalty involves suspension or revocation of a license to sell tobacco under Section 59-14-203.5, 59-14-301.5, or 59-14-803, half of the penalty shall be paid to the commission, and the other half shall be allocated under Subsection (1) or (2), as appropriate.]~~

Section ~~{10}~~19. Section ~~{26-62-101}~~26A-1-128 is enacted to read:

### ~~{CHAPTER 62. TOBACCO RETAIL PERMIT~~

#### ~~Part 1. General Provisions~~

~~\_\_\_\_\_26-62-101. Title:~~

~~\_\_\_\_\_This chapter is known as "Tobacco Retail Permit."~~

~~\_\_\_\_\_Section 11. Section 26-62-102 is enacted to read:~~

~~\_\_\_\_\_26-62-102. Definitions:~~

~~\_\_\_\_\_As used in this chapter:~~

~~\_\_\_\_\_ (1) "Community location" means the same as that term is defined:~~

~~\_\_\_\_\_ (a) as it relates to a municipality, in Section 10-8-41.6; and~~

~~\_\_\_\_\_ (b) as it relates to a county, in Section 17-50-333.~~

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~~(2) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business:~~

~~(3) "Local health department" means the same as that term is defined in Section 26A-1-102:~~

~~(4) "Permit" means a tobacco retail permit issued under this chapter:~~

~~(5) "Retail tobacco specialty business" means the same as that term is defined:~~

~~(a) as it relates to a municipality, in Section 10-8-41.6; and~~

~~(b) as it relates to a county, in Section 17-50-333:~~

~~(6) "Tax commission license" means a license issued by the State Tax Commission under:~~

~~(a) Section 59-14-201 to sell cigarettes at retail;~~

~~(b) Section 59-14-301 to sell tobacco products at retail; or~~

~~(c) Section 59-14-803 to sell an electronic cigarette product at retail:~~

~~(7) "Tobacco product" means:~~

~~(a) any cigar, cigarette, or electronic cigarette as those terms are defined in Section 76-10-101;~~

~~(b) a tobacco product as that term is defined in Section 59-14-102, including:~~

~~(i) chewing tobacco; or~~

~~(ii) any substitute for a tobacco product, including flavoring or additives to tobacco; or~~

~~(c) tobacco paraphernalia as that term is defined in Section 76-10-104.1:~~

~~(8) "Tobacco retailer" means a person that is required to obtain a tax commission license to sell a tobacco product:~~

~~Section 12. Section 26-62-103 is enacted to read:~~

~~**26-62-103. Regulation of tobacco retailers:**~~

~~The regulation of a tobacco retailer is an exercise of the police powers of the state, and through delegation, to other governmental entities:~~

~~Section 13. Section 26-62-201 is enacted to read:~~

### **Part 2. Permit Requirements**

~~**26-62-201. Permitting requirement.**~~

~~(1) (a) Beginning July 1, 2018, a tobacco retailer shall hold a valid tobacco retail permit issued in accordance with this chapter by the local health department with jurisdiction~~

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~~over the physical location where the tobacco retailer operates:~~

~~—— (b) A tobacco retailer without a valid permit may not:~~

~~—— (i) place tobacco products in public view;~~

~~—— (ii) display any advertisement related to tobacco products that promotes the sale, distribution, or use of those products; or~~

~~—— (iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco or tobacco products:~~

~~—— (2) A local health department may issue a permit under this chapter for a tobacco retailer in the classification of:~~

~~—— (a) a general tobacco retailer; or~~

~~—— (b) a retail tobacco specialty business:~~

~~—— (3) A permit under this chapter is:~~

~~—— (a) valid only for one physical location, including a vending machine;~~

~~—— (b) valid only at one fixed business address; and~~

~~—— (c) if multiple tobacco retailers are at the same address, separately required for each tobacco retailer:~~

~~—— (4) Notwithstanding the requirement in Subsection (1), a person that holds a tax commission license that was valid on July 1, 2018:~~

~~—— (a) may operate without a permit under this chapter until December 31, 2018; and~~

~~—— (b) shall obtain a permit from a local health department under this chapter before January 1, 2019:~~

~~—— Section 14. Section ~~26-62-202~~ is enacted to read:~~

~~—— **26-62-202. Permit application.**~~

~~—— (1) A local health department shall issue a permit under this chapter for a tobacco retailer if the local health department determines that the applicant:~~

~~—— (a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and~~

~~—— (b) meets all requirements for a permit under this chapter:~~

~~—— (2) An applicant for a permit shall:~~

~~—— (a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and~~

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- ~~\_\_\_\_\_ (b) pay all applicable fees described in Section 26-62-203;~~
- ~~\_\_\_\_\_ (3) The application for a permit shall include:~~
  - ~~\_\_\_\_\_ (a) the name, address, and telephone number of each proprietor;~~
  - ~~\_\_\_\_\_ (b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;~~
  - ~~\_\_\_\_\_ (c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;~~
  - ~~\_\_\_\_\_ (d) evidence that the location for which a permit is sought has a valid tax commission license;~~
  - ~~\_\_\_\_\_ (e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:~~
    - ~~\_\_\_\_\_ (i) a provision of this chapter;~~
    - ~~\_\_\_\_\_ (ii) Chapter 38, Utah Indoor Clean Air Act;~~
    - ~~\_\_\_\_\_ (iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;~~
    - ~~\_\_\_\_\_ (iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~
    - ~~\_\_\_\_\_ (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or~~
    - ~~\_\_\_\_\_ (vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of tobacco products; and~~
  - ~~\_\_\_\_\_ (f) the dates of all violations disclosed under this Subsection (3);~~
- ~~\_\_\_\_\_ (4) (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:~~
  - ~~\_\_\_\_\_ (i) 1,000 feet of a community location;~~
  - ~~\_\_\_\_\_ (ii) 600 feet of another retail tobacco specialty business; or~~
  - ~~\_\_\_\_\_ (iii) 600 feet of property used or zoned for agricultural or residential use.~~
- ~~\_\_\_\_\_ (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard~~

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~~to intervening structures or zoning districts:~~

~~—— (5) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this chapter:~~

~~—— (b) The permit process established by the department under Subsection (5)(a) may not require any information in an application that is not required by this section:~~

~~—— Section 15. Section 26-62-203 is enacted to read:~~

~~—— **26-62-203. Permit term and fees:**~~

~~—— (1) (a) The term of a permit issued under this chapter to a retail tobacco specialty business is one year:~~

~~—— (b) The term of a permit issued under this chapter to a general tobacco retailer is two years:~~

~~—— (2) (a) A local health department may not issue a permit under this chapter until the applicant has paid a permit fee to the local health department of:~~

~~—— (i) \$30 for a new permit;~~

~~—— (ii) \$20 for a permit renewal; or~~

~~—— (iii) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to expire:~~

~~—— (b) A local health department that collects fees under Subsection (2)(a) shall use the fees to administer the permit requirements under this chapter:~~

~~—— (3) A permit holder may apply for a renewal of a permit no earlier than 30 days before the day on which the permit expires:~~

~~—— (4) A tobacco retailer that fails to renew a permit before the permit expires shall submit:~~

~~—— (a) the information required in Subsection 26-62-202(3) and, if applicable, Subsection 26-62-202(4);~~

~~—— (b) the fee for the reinstatement of a permit; and~~

~~—— (c) a signed affidavit affirming that the tobacco retailer has not violated the prohibitions in Subsection 26-62-201(1)(b) after the permit expired:~~

~~—— Section 16. Section 26-62-204 is enacted to read:~~

~~—— **26-62-204. Permit nontransferable:**~~

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- ~~— (1) A permit is nontransferable;~~
- ~~— (2) If the information described in Subsection 26-62-202(3) changes, a tobacco retailer:~~
- ~~— (a) may not renew the permit; and~~
- ~~— (b) shall apply for a new permit no later than 15 days after the information in Subsection 26-62-202(3) changes;~~

~~— Section 17. Section 26-62-205 is enacted to read:~~

~~— **26-62-205. Permit requirements for a retail tobacco specialty business:**~~

~~— A retail tobacco specialty business shall:~~

- ~~— (1) except as provided in Subsection 76-10-105.1(4), prohibit any individual under 19 years of age from entering the business; and~~
- ~~— (2) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates the prohibition in Subsection 76-10-105.1(4);~~

~~— Section 18. Section 26-62-301 is enacted to read:~~

### **Part 3. Enforcement**

~~— **26-62-301. Permit violation:**~~

~~— A person is in violation of the permit issued under this chapter if the person violates:~~

- ~~— (1) a provision of this chapter;~~
- ~~— (2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;~~
- ~~— (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;~~
- ~~— (4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~
- ~~— (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or~~
- ~~— (6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of tobacco products;~~

~~— Section 19. Section 26-62-302 is enacted to read:~~

~~— **26-62-302. Enforcement by state and local health departments:**~~

~~— The department and local health departments shall enforce this chapter under the procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative proceeding, including:~~

- ~~— (1) notifying a tobacco retailer of alleged violations of this chapter;~~



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~~— (2) conducting hearings;~~

~~— (3) determining violations of this chapter; and~~

~~— (4) imposing civil administrative penalties;~~

~~— Section 20. Section **26-62-303** is enacted to read:~~

~~— **26-62-303. Inspection of retail tobacco businesses.**~~

~~— The department or a local health department may inspect a tobacco retailer to determine whether the tobacco retailer:~~

~~— (1) continues to meet the qualifications for the permit issued under this chapter;~~

~~— (2) if applicable, continues to meet the requirements for a retail tobacco specialty business license issued under Section 10-8-41.6 or Section 17-50-333;~~

~~— (3) engaged in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~

~~— (4) violated any of the regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or~~

~~— (5) has violated any other provision of state law or local ordinance.~~

~~— Section 21. Section **26-62-304** is enacted to read:~~

~~— **26-62-304. Hearing -- Evidence of criminal conviction.**~~

~~— (1) At a civil hearing conducted under Section 26-62-302, evidence of the final criminal conviction of a tobacco retailer or employee of a tobacco retailer for violation of Section 76-10-104 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this chapter for the sale of tobacco products to a person under the age of 19 is prima facie evidence of a violation of this chapter.~~

~~— (2) If the tobacco retailer is convicted of violating Section 76-10-104, the enforcing agency:~~

~~— (a) may not assess an additional monetary penalty under this chapter for the same offense for which the conviction was obtained; and~~

~~— (b) may revoke or suspend a permit in accordance with Section 26-62-305.~~

~~— Section 22. Section **26-62-305** is enacted to read:~~

~~— **26-62-305. Penalties.**~~

~~— (1) If, following an investigation or the issuance of a citation or information, the~~

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~~department or a local health department determines that a person violated the terms of a permit issued under this chapter, the department or a local health department may impose the penalties described in this section:~~

~~—— (2) (a) The administrative penalty for a first violation is a penalty of \$500.~~

~~—— (b) The administrative penalty for a second violation that occurs within 24 months after the day on which the first violation occurs is a penalty of \$1,000.~~

~~—— (c) The administrative penalty for a third or subsequent violation that occurs within 24 months after the day on which the first violation occurs is:~~

~~—— (i) a suspension of the retail tobacco business permit for five consecutive business days within 60 days after the day on which the third or subsequent violation occurs; or~~

~~—— (ii) a penalty of \$2,000.~~

~~—— (3) The department or a local health department may:~~

~~—— (a) revoke a permit if, within 24 months after the day on which a first violation of the permit occurred, a fourth violation occurs;~~

~~—— (b) suspend a permit and impose a monetary penalty under Subsection (2), if the violation is due to a tobacco sale to a person under 19 years of age; and~~

~~—— (c) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.~~

~~—— (4) (a) Except as provided in Subsection (5)(b), a local health department may not issue a permit to:~~

~~—— (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (3);~~

~~or~~

~~—— (ii) a tobacco retailer that has the same proprietor as another tobacco retailer for whom a permit is suspended or revoked under Subsection (3);~~

~~—— (b) A person described in Subsection (3) whose permit:~~

~~—— (i) is suspended, may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which the department or a local health department suspends the permit; and~~

~~—— (ii) is revoked, may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which the permit is revoked.~~

~~—— (5) Violations of this chapter, Section 10-8-41.6, or Section 17-50-333 that occur at a~~

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~~tobacco retailer shall stay on the record for the location of that tobacco retailer unless:~~

- ~~—— (a) the tobacco retailer is transferred to a new proprietor; and~~
- ~~—— (b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.~~

~~—— Section 23. Section **26-62-306** is enacted to read:~~

~~—— **26-62-306. Recognition of tobacco retailer training program.**~~

~~—— (1) In determining the amount of the monetary penalty to be imposed for an employee's violation of this chapter, a hearing officer shall reduce the civil penalty by 50% if the hearing officer determines that:~~

- ~~—— (a) the tobacco retailer has implemented a documented employee training program; and~~
- ~~—— (b) the employees have completed that training program within 30 days after the day on which each employee commences the duties of selling tobacco products.~~

~~—— (2) (a) For the first offense at a location, if the hearing officer determines under Subsection (1) that the tobacco retailer has not implemented a documented training program with a written curriculum for employees at that location regarding compliance with this chapter, the hearing officer may suspend all or a portion of the penalty if:~~

- ~~—— (i) the tobacco retailer agrees to initiate a training program for employees at that location; and~~
- ~~—— (ii) the training program begins within 30 days after the hearing officer makes a determination under this Subsection (2)(a):~~

~~—— (b) If the hearing officer determines at a subsequent hearing that the tobacco retailer has not implemented the training program within the time period required under Subsection (2)(a)(ii), the hearing officer shall promptly impose the suspended penalty, unless the tobacco retailer demonstrates good cause for an extension of time for implementation of the training program.~~

~~—— Section 24. Section **26-62-307** is enacted to read:~~

~~—— **26-62-307. Allocation of civil penalties.**~~

~~—— Civil monetary penalties collected under this chapter shall be allocated as follows:~~

- ~~—— (1) if a local health department conducts an adjudicative proceeding under Section 26-62-302, the penalty shall be paid to the treasurer of the county in which the violation was~~

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~~committed, and transferred to the local health department, and~~

~~(2) if the department conducts a civil hearing under Section 26-62-302, the penalty shall be deposited in the state's General Fund, and may be appropriated by the Legislature to the Department of Health for use in enforcement of this chapter.~~

~~Section 25. Section 26A-1-128 is enacted to read:~~

‡ **26A-1-128. Tobacco permits -- Enforcement.**

A local health department:

(1) shall enforce the requirements of Title 26, Chapter 62, Tobacco Retail

~~{Permits}~~Permit;

(2) may enforce licensing requirements for entities that hold a business license to sell tobacco products under Section 10-8-41.6 or Section 17-50-333; and

(3) may recommend to a municipality or county that the business license of a retail tobacco specialty business be suspended or revoked for a violation of Section 10-8-41.6, Section 17-50-333, or Title 26, Chapter 62, Tobacco Retail Permit.

Section ~~{26}~~20. Section **59-14-201** is amended to read:

**59-14-201. License -- Application of part -- Fee -- Bond -- Exceptions.**

(1) It is unlawful for any person in this state to manufacture, import, distribute, barter, sell, exchange, or offer cigarettes for sale without first having obtained a license issued by the commission under Section 59-14-202.

(2) Except for the tax rates described in Subsection 59-14-204(2), this part does not apply to a cigarette produced from a cigarette rolling machine.

(3) (a) A license may not be issued for the sale of cigarettes until the applicant has paid a license fee of \$30 or a license renewal fee of \$20, as appropriate.

(b) The fee for reinstatement of a license that has been revoked, suspended, or allowed to expire is \$30.

(c) Notwithstanding Subsections (3)(a) and (b), the commission may not charge a fee for a license under this section for a retailer, as defined in Section 59-14-102.

(4) (a) A license may not be issued until the applicant files a bond with the commission. The commission shall determine the form and the amount of the bond, the minimum amount of which shall be \$500. The bond shall be executed by the applicant as principal, with a corporate surety, payable to the state and conditioned upon the faithful

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performance of all the requirements of this chapter, including the payment of all taxes, penalties, and other obligations.

(b) An applicant is not required to post a bond if the applicant:

(i) purchases during the license year only products that have the proper state stamp affixed as required by this chapter; and

(ii) files an affidavit with the applicant's application attesting to this fact.

Section ~~{27}~~21. Section **59-14-803** is amended to read:

### **59-14-803. License to sell electronic cigarette products.**

(1) Except as provided in Subsection (2), a person may not sell, offer to sell, or distribute an electronic cigarette product in Utah without first obtaining a license to sell an electronic cigarette product from the commission under this section.

(2) A person that holds a valid license to sell cigarettes under Section 59-14-201, or a person that holds a valid license to sell tobacco products under Section 59-14-301, may, without obtaining a separate license to sell an electronic cigarette product under this part, sell, offer to sell, or distribute an electronic cigarette product in Utah in accordance with this part.

(3) [~~Except as provided in Subsection (6), the~~] The commission shall issue a license to sell an electronic cigarette product to a person that~~[:(a)]~~ submits an application, on a form created by the commission, that includes:

~~[(i)]~~ (a) the person's name;

~~[(ii)]~~ (b) the address of the facility where the person will sell an electronic cigarette product; and

~~[(iii)]~~ (c) any other information the commission requires to implement this chapter~~;~~  
~~and~~].

~~[(b) pays a fee:]~~

~~[(i) in the amount of \$30; or]~~

~~[(ii) if renewing the person's license, in the amount of \$20.]~~

(4) A license described in Subsection (3) is:

(a) valid only at one fixed business address;

(b) valid for three years;

(c) valid only for a physical location; and

(d) renewable if a licensee meets the criteria for licensing described in Subsection (3).

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~~[(5) The commission shall, after notifying a licensee, revoke a license described in Subsection (3) if an enforcing agency determines the licensee has violated a provision of:]~~

~~[(a) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underage Persons; or]~~

~~[(b) Title 26, Chapter 57, Electronic Cigarette Regulation Act.]~~

~~[(6) If the commission revokes a person's license to sell an electronic cigarette product under Subsection (5), the commission may not issue a license to sell an electronic cigarette product, a license to sell cigarettes under Section 59-14-201, or a license to sell tobacco under Section 59-14-301 to the person until one year after:]~~

~~[(a) the day on which the time for filing an appeal of the revocation ends, as determined by the enforcing agency; or]~~

~~[(b) if the person appeals the enforcing agency's decision to revoke the license to sell an electronic cigarette product, the day on which the enforcing agency's decision to uphold the revocation is final.]~~

~~[(7) If the commission revokes a person's license under Subsection (5), the commission shall also revoke the person's license to sell cigarettes under Section 59-14-201, if any, and the person's license to sell tobacco under Section 59-14-301, if any.]~~

~~[(8) (5) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the additional information described in Subsection (3)(a)(iii)(c) that a person must provide in the application described in Subsection (3)(a)].~~

~~[(9) (6) It is a class B misdemeanor for a person to violate Subsection (1).~~

~~(7) The commission may not charge a fee for a license under this chapter.~~

Section ~~{28}~~22. Section **76-10-105.1** is amended to read:

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

(1) As used in this section:

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

(b) (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

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(B) self-service display.

(c) "Retailer" means a person who:

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

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

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

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

(f) "Tobacco specialty shop" means [~~a retailer with a physical location that derives at least 80% of its total sales from the sale of cigarettes, tobacco, or electronic cigarettes.~~] a "retail tobacco specialty business" as that term is defined:

(i) as it relates to a municipality, in Section 10-8-41.6; and

(ii) as it relates to a county, in Section 17-50-333.

(2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, or an electronic cigarette 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 tobacco specialty shop.

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

(a) accompanied by a parent or legal guardian;

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

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

(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 tobacco specialty shop, may not allow the individual to purchase a cigarette, tobacco, or an electronic cigarette.

(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 the third and all subsequent offenses.

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

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

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

Section ~~29~~23. Section **77-39-101** is amended to read:

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

(1) As used in this section, "electronic cigarette" is as defined in Section 76-10-101.

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

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

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

(A) a cigar;

(B) a cigarette;

(C) tobacco in any form; or

(D) an electronic cigarette.



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

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

- (i) alcohol; or
- (ii) (A) a cigar;
- (B) a cigarette;
- (C) tobacco in any form; or
- (D) an electronic cigarette.

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

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

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

- (i) be a trained volunteer; or
- (ii) receive payment, but may not be paid based on the number of successful purchases of alcohol, tobacco, or an electronic cigarette.

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

(5) An individual requested to attempt to purchase or make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol, a cigar, a cigarette, tobacco in any form, or an electronic cigarette if a peace officer directs, supervises, and monitors the individual.

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

- (i) on a random basis; and
- (ii) within a 12-month period at any one retail establishment location not more often

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than:

(A) [~~four~~] two times for the attempted purchase of:

(I) a cigar;

(II) a cigarette;

(III) tobacco in any form; or

(IV) an electronic cigarette; and

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

(b) Nothing in this section shall prohibit an investigation or an attempt to purchase tobacco under this section if:

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

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

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

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

(i) the name of the supervising peace officer;

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

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

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

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

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

Section ~~30~~24. **Repealer.**

This bill repeals:

Section 26-42-101, Title.

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

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

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~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~

Section 25. Effective date.

This bill takes effect on July 1, 2018.