

76-10-111, as last amended by Laws of Utah 2010, Chapter 114

76-10-112, as enacted by Laws of Utah 1989, Chapter 193

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.

(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;

(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) "Electronic cigarette product" means the same as that term is defined in Section 59-14-802.

↗ (d) ↖ (i) "Flavored ↗ [tobacco] electronic cigarette ↖ product" means ↗ [a-tobacco] an electronic cigarette ↖ product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the ↗ [tobacco] electronic cigarette ↖ product.

(ii) "Flavored ↗ [tobacco] electronic cigarette ↖ product" includes ↗ [a-tobacco] an electronic cigarette ↖ product that has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice.

(iii) "Flavored ↗ [tobacco] electronic cigarette ↖ product" does not include ↗ [a-tobacco] an electronic cigarette ↖ product that has a taste or smell of only tobacco or menthol.

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

↗ (f) ↖ (g) ↖ "Permittee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

57 ~~[(e)]~~ ~~H→~~ ~~[(f)]~~ ~~(g)~~ ~~←H~~ "Retail tobacco specialty business" means a commercial
 57a establishment in
 58 which:
 59 (i) the sale of tobacco products accounts for more than 35% of the total quarterly gross
 60 receipts for the establishment;
 61 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
 62 storage of tobacco products;
 63 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
 64 tobacco products; ~~[or]~~
 65 (iv) the retail space features a self-service display for tobacco products~~[-]; or~~
 66 ~~(v) any flavored~~ ~~H→~~ ~~[tobacco]~~ ~~electronic cigarette~~ ~~←H~~ ~~product is sold.~~

67 ~~[(f)]~~ ~~H→~~ ~~[(g)]~~ ~~(h)~~ ~~←H~~ "Self-service display" means the same as that term is defined in
 67a Section
 68 76-10-105.1.

69 ~~[(g)]~~ ~~H→~~ ~~[(h)]~~ ~~(i)~~ ~~←H~~ "Tobacco product" means:
 70 (i) any cigar, cigarette, or electronic cigarette, as those terms are defined in Section
 71 76-10-101;
 72 (ii) a tobacco product, as that term is defined in Section 59-14-102, including:
 73 (A) chewing tobacco; or
 74 (B) any substitute for a tobacco product, including flavoring or additives to tobacco;
 75 and
 76 (iii) tobacco paraphernalia, as that term is defined in Section 76-10-104.1.

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

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

82 (b) A municipality may only issue a retail tobacco specialty business license to a
 83 person if the person complies with the provisions of Subsections (4) and (5).

84 (4) (a) Except as provided in Subsection (7), a municipality may not issue a license for
 85 a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty
 86 business is located within:

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

- (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;
- (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.

Ĥ→ (c) "Electronic cigarette product" means the same as that term is defined in Section 59-14-802.

[Ċ] (d) ←Ĥ (i) "Flavored Ĥ→ [tobacco] electronic cigarette ←Ĥ product" means Ĥ→ [a-tobacco] an electronic cigarette ←Ĥ product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the Ĥ→ [tobacco] electronic cigarette ←Ĥ product.

(ii) "Flavored Ĥ→ [tobacco] electronic cigarette ←Ĥ product" includes Ĥ→ [a-tobacco] an electronic cigarette ←Ĥ product that has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice.

(iii) "Flavored Ĥ→ [tobacco] electronic cigarette ←Ĥ product" does not include Ĥ→ [a-tobacco] an electronic cigarette ←Ĥ product that has a taste or smell of only tobacco or menthol.

[Ċ] Ĥ→ [Ċ] (e) ←Ĥ "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

[Ċ] Ĥ→ [Ċ] (f) ←Ĥ "Local health department" means the same as that term is defined in Section 26A-1-102.

[Ċ] Ĥ→ [Ċ] (g) ←Ĥ "Retail tobacco specialty business" means a commercial establishment in which:

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

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

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

176 ⊕ (iv) the retail space features a self-service display for tobacco products~~[-]; or~~
177 (v) any flavored ~~H→~~ [tobacco] electronic cigarette ~~←H~~ product is sold.
178 ~~[(f)]~~ ~~H→~~ ~~[(g)]~~ (h) ~~←H~~ "Self-service display" means the same as that term is defined in
178a Section
179 76-10-105.1.
180 ~~[(g)]~~ ~~H→~~ ~~[(h)]~~ (i) ~~←H~~ "Tobacco product" means: