

**TOBACCO AGE AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to an individual's age and tobacco, tobacco paraphernalia, or electronic cigarettes.

**Highlighted Provisions:**

This bill:

- ▶ tiers the minimum age for obtaining, possessing, using, providing, or furnishing of

28 tobacco products, paraphernalia, and under certain circumstances, electronic cigarettes from 19  
29 to 20, then to 21 years old;

- 30 ▶ preempts certain local government regulation relating to cigarettes, electronic  
31 cigarettes, or tobacco;
- 32 ▶ provides exceptions for military members, their spouses, and dependents;
- 33 ▶ addresses identification documents; and
- 34 ▶ makes technical and conforming changes.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 This bill provides a special effective date.

39 **Utah Code Sections Affected:**

40 AMENDS:

41 **10-8-47**, as last amended by Laws of Utah 2018, Chapter 189

42 **26-62-205**, as enacted by Laws of Utah 2018, Chapter 231

43 **26-62-304**, as renumbered and amended by Laws of Utah 2018, Chapter 231

44 **26-62-305**, as renumbered and amended by Laws of Utah 2018, Chapter 231

45 **51-9-203**, as last amended by Laws of Utah 2012, Chapter 242

46 **53-3-207**, as last amended by Laws of Utah 2016, Chapter 350

47 **53-3-806**, as last amended by Laws of Utah 2010, Chapter 276

48 **59-14-703**, as enacted by Laws of Utah 2013, Chapter 148

49 **76-10-103**, as enacted by Laws of Utah 1973, Chapter 196

50 **76-10-104**, as last amended by Laws of Utah 2010, Chapter 114

51 **76-10-104.1**, as last amended by Laws of Utah 2013, Chapter 278

52 **76-10-105**, as last amended by Laws of Utah 2018, Chapter 415

53 **76-10-105.1**, as last amended by Laws of Utah 2018, Chapter 231

54 **77-39-101**, as last amended by Laws of Utah 2018, Chapter 231

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

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

58 **10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit**  
59 **larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses**  
60 **and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of**  
61 **controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

62 (1) A municipal legislative body may:

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

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

68 (c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in  
69 accordance with Section [53-7-225](#), or any other dangerous or combustible material;

70 (d) provide against and prevent the offense of obtaining money or property under false  
71 pretenses and the offense of embezzling money or property in ~~[at]~~ the cases ~~[where]~~ when the  
72 money or property embezzled or obtained under false pretenses does not exceed in value the  
73 sum of \$500; ~~[and]~~

74 (e) prohibit the sale, giving away, or furnishing of narcotics~~;~~ or alcoholic beverages to  
75 ~~[a person]~~ an individual younger than 21 years ~~[of age, or tobacco to any person younger than~~  
76 ~~19 years of age.]~~ old; or

77 (f) prohibit the sale, giving away, or furnishing of tobacco or e-cigarettes to an  
78 individual younger than:

79 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

80 (ii) beginning July 1, 2021, 21 years old.

81 (2) A city may:

82 (a) by ordinance, prohibit the possession of controlled substances as defined in the  
83 Utah Controlled Substances Act or any other endangering or impairing substance, provided the

84 conduct is not a class A misdemeanor or felony; and

85 (b) provide for treatment of alcoholics, narcotic addicts, and other ~~[persons]~~  
86 individuals who are addicted to the use of drugs or intoxicants such that ~~[a person]~~ an  
87 individual substantially lacks the capacity to control the ~~[person's]~~ individual's use of the drugs  
88 or intoxicants, and judicial supervision may be imposed as a means of effecting ~~[their]~~ the  
89 individual's rehabilitation.

90 Section 2. Section **26-62-205** is amended to read:

91 **26-62-205. Permit requirements for a retail tobacco specialty business.**

92 A retail tobacco specialty business shall:

93 (1) except as provided in Subsection **76-10-105.1**(4), prohibit any individual ~~[under 19~~  
94 ~~years of age]~~ from entering the business if the individual is:

95 (a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and

96 (b) beginning July 1, 2021, under 21 years old; and

97 (2) prominently display at the retail tobacco specialty business a sign on the public  
98 entrance of the business that communicates the prohibition in Subsection **76-10-105.1**(4).

99 Section 3. Section **26-62-304** is amended to read:

100 **26-62-304. Hearing -- Evidence of criminal conviction.**

101 (1) At a civil hearing conducted under Section **26-62-302**, evidence of the final  
102 criminal conviction of a tobacco retailer or employee for violation of Section **76-10-104** at the  
103 same location and within the same time period as the location and time period alleged in the  
104 civil hearing for violation of this chapter for sale of tobacco products to ~~[a person]~~ an  
105 individual under ~~[the age of 19]~~ the following ages is prima facie evidence of a violation of this  
106 chapter[-]:

107 (a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and

108 (b) beginning July 1, 2021, under 21 years old.

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

111 (a) may not assess an additional monetary penalty under this chapter for the same

112 offense for which the conviction was obtained; and

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

114 Section 4. Section 26-62-305 is amended to read:

115 **26-62-305. Penalties.**

116 (1) (a) If, following an inspection by an enforcing agency, or an investigation or  
117 issuance of a citation or information under Section 77-39-101, an enforcing agency determines  
118 that a person has violated the terms of a permit issued under this chapter, the enforcing agency  
119 may impose the penalties described in this section.

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

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

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

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

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

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

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

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

134 (b) in addition to a monetary penalty imposed under Subsection (2), suspend the permit  
135 if the violation is due to a sale of tobacco products to ~~[a person]~~ an individual under ~~[19 years~~  
136 ~~of age]~~:

137 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

138 (ii) beginning July 1, 2021, 21 years old; and

139 (c) if applicable, recommend to a municipality or county that a retail tobacco specialty

140 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

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

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

144 or

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

148 (b) A person whose permit:

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

152 (ii) is revoked may not apply for a new permit for any tobacco retailer for a period of  
153 24 months after the day on which an enforcing agency revokes the permit.

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

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

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

160 Section 5. Section 51-9-203 is amended to read:

161 **51-9-203. Requirements for tobacco programs.**

162 (1) To be eligible to receive funding under this part for a tobacco prevention, reduction,  
163 cessation, or control program, an organization, whether private, governmental, or  
164 quasi-governmental, shall:

165 (a) submit a request to the Department of Health containing the following information:

166 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate  
167 sound management and periodic evaluation of the campaign's relevance to the intended

168 audience, particularly in campaigns directed toward youth, including audience awareness of the  
169 campaign and recollection of the main message;

170 (ii) for school-based education programs to prevent and reduce youth smoking, the  
171 request shall describe how the program will be effective in preventing and reducing youth  
172 smoking;

173 (iii) for community-based programs to prevent and reduce smoking, the request shall  
174 demonstrate that the proposed program:

175 (A) has a comprehensive strategy with a clear mission and goals;

176 (B) provides for committed, caring, and professional leadership; and

177 (C) if directed toward youth:

178 (I) offers youth-centered activities in youth accessible facilities;

179 (II) is culturally sensitive, inclusive, and diverse;

180 (III) involves youth in the planning, delivery, and evaluation of services that affect  
181 them; and

182 (IV) offers a positive focus that is inclusive of all youth; and

183 (iv) for enforcement, control, and compliance program, the request shall demonstrate  
184 that the proposed program can reasonably be expected to reduce the extent to which tobacco  
185 products are available to individuals under ~~[the age of 19]~~ the following ages:

186 (A) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

187 (B) beginning July 1, 2021, 21 years old;

188 (b) agree, by contract, to file an annual written report with the Department of Health[-  
189 ~~The report shall contain]~~ that contains the following:

190 (i) the amount funded;

191 (ii) the amount expended;

192 (iii) a description of the program or campaign and the number of adults and youth who  
193 participated;

194 (iv) specific elements of the program or campaign meeting the applicable criteria set  
195 forth in Subsection (1)(a); and

196 (v) a statement concerning the success and effectiveness of the program or campaign;

197 (c) agree, by contract, to not use any funds received under this part directly or

198 indirectly, to:

199 (i) engage in any lobbying or political activity, including the support of, or opposition  
200 to, candidates, ballot questions, referenda, or similar activities; or

201 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to  
202 enforce:

203 (A) the provisions of the Master Settlement Agreement;

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

205 (C) Title 26, Chapter [~~42, Civil Penalties for Tobacco Sales to Underage Persons~~] 62,  
206 Part 3, Enforcement; and

207 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and

208 (d) agree, by contract, to repay the funds provided under this part if the organization:

209 (i) fails to file a timely report as required by Subsection (1)(b); or

210 (ii) uses any portion of the funds in violation of Subsection (1)(c).

211 (2) The Department of Health shall review and evaluate the success and effectiveness  
212 of any program or campaign that receives funding pursuant to a request submitted under  
213 Subsection (1). The review and evaluation:

214 (a) shall include a comparison of annual smoking trends;

215 (b) may be conducted by an independent evaluator; and

216 (c) may be paid for by funds appropriated from the account for that purpose.

217 (3) The Department of Health shall annually report to the Social Services

218 Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).

219 (4) An organization that fails to comply with the contract requirements set forth in  
220 Subsection (1) shall:

221 (a) repay the state as provided in Subsection (1)(d); and

222 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.

223 (5) The attorney general shall be responsible for recovering funds that are required to



224 be repaid to the state under this section.

225 (6) Nothing in this section may be construed as applying to funds that are not  
226 appropriated under this part.

227 Section 6. Section **53-3-207** is amended to read:

228 **53-3-207. License certificates or driving privilege cards issued to drivers by class**  
229 **of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary**  
230 **licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**

231 (1) As used in this section:

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

234 (b) "Governmental entity" means the state [~~and its political subdivisions as defined in~~  
235 ~~this Subsection (1)~~] or a political subdivision of the state.

236 (c) "Political subdivision" means any county, city, town, school district, public transit  
237 district, community reinvestment agency, special improvement or taxing district, local district,  
238 special service district, an entity created by an interlocal agreement adopted under Title 11,  
239 Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public  
240 corporation.

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

244 (2) (a) The division shall issue to every [~~person~~] individual privileged to drive a motor  
245 vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege  
246 card indicating the type or class of motor vehicle the [~~person~~] individual may drive.

247 (b) [~~A person~~] An individual may not drive a class of motor vehicle unless granted the  
248 privilege in that class.

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

251 (i) the distinguishing number assigned to the [~~person~~] individual by the division;

- 252 (ii) the name, birth date, and Utah residence address of the [person] individual;
- 253 (iii) a brief description of the [person] individual for the purpose of identification;
- 254 (iv) any restrictions imposed on the license under Section 53-3-208;
- 255 (v) a photograph of the [person] individual;
- 256 (vi) a photograph or other facsimile of the person's signature;
- 257 (vii) an indication whether the [person] individual intends to make an anatomical gift  
258 under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege  
259 is extended under Subsection 53-3-214(3); and
- 260 (viii) except as provided in Subsection (3)(b), if the [person] individual states that the  
261 [person] individual is a veteran of the United States military on the application for a driver  
262 license in accordance with Section 53-3-205 and provides verification that the [person]  
263 individual was granted an honorable or general discharge from the United States Armed  
264 Forces, an indication that the [person] individual is a United States military veteran for a  
265 regular license certificate or limited-term license certificate issued on or after July 1, 2011.
- 266 (b) A regular license certificate or limited-term license certificate issued to [any  
267 person] an individual younger than 21 years on a portrait-style format as required in Subsection  
268 (5)(b)(~~ii~~) is not required to include an indication that the [person] individual is a United States  
269 military veteran under Subsection (3)(a)(viii).
- 270 (c) A new license certificate issued by the division may not bear the ~~[person's Social~~  
271 ~~Security]~~ individual's social security number.
- 272 (d) (i) The regular license certificate, limited-term license certificate, or driving  
273 privilege card shall be of an impervious material, resistant to wear, damage, and alteration.
- 274 (ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular  
275 license certificate, limited-term license certificate, or driving privilege card shall be as  
276 prescribed by the commissioner.
- 277 (iii) The commissioner may also prescribe the issuance of a special type of limited  
278 regular license certificate, limited-term license certificate, or driving privilege card under  
279 Subsection 53-3-220(4).

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

284 (ii) (A) The division shall issue a temporary regular license certificate or temporary  
285 limited-term license certificate allowing the [person] individual to drive a motor vehicle while  
286 the division is completing its investigation to determine whether the [person] individual is  
287 entitled to be granted a driving privilege.

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

291 (b) The temporary regular license certificate or temporary limited-term license  
292 certificate shall be in the [person's] individual's immediate possession while driving a motor  
293 vehicle, and it is invalid when the [person's] individual's regular license certificate or  
294 limited-term license certificate has been issued or when, for good cause, the privilege has been  
295 refused.

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

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

301 (ii) The division may issue a learner permit issued in accordance with Section  
302 [53-3-210.5](#) to an applicant for a driving privilege card.

303 (5) (a) The division shall distinguish learner permits, temporary permits, regular  
304 license certificates, limited-term license certificates, and driving privilege cards issued to any  
305 [person] individual younger than 21 years of age by use of plainly printed information or the  
306 use of a color or other means not used for other regular license certificates, limited-term license  
307 certificates, or driving privilege cards.

308 (b) The division shall distinguish a regular license certificate, limited-term license  
309 certificate, or driving privilege card issued to ~~[any person: (i)]~~ an individual younger than 21  
310 years of age by use of a portrait-style format not used for other regular license certificates,  
311 limited-term license certificates, or driving privilege cards and by plainly printing the date the  
312 regular license certificate, limited-term license certificate, or driving privilege card holder is 21  
313 years of age~~[, which is the legal age for purchasing an alcoholic beverage or alcoholic product~~  
314 ~~under Section 32B-4-403; and]~~

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

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

320 (a) that it is temporary; and

321 (b) its expiration date.

322 (7) (a) The division shall only issue a driving privilege card to ~~[a person]~~ an individual  
323 whose privilege was obtained without providing evidence of lawful presence in the United  
324 States as required under Subsection 53-3-205(8).

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

326 (i) use of a format, color, font, or other means; and

327 (ii) clearly displaying on the front of the driving privilege card a phrase substantially  
328 similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

329 (8) The provisions of Subsection (5)(b) do not apply to a learner permit, temporary  
330 permit, temporary regular license certificate, temporary limited-term license certificate, or any  
331 other temporary permit.

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

335 (10) (a) A governmental entity may not accept a driving privilege card as proof of

336 personal identification.

337 (b) A driving privilege card may not be used as a document providing proof of [a  
338 person's] an individual's age for any government required purpose.

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

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

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

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

346 Section 7. Section **53-3-806** is amended to read:

347 **53-3-806. Portrait-style format -- Minor's card distinguishable.**

348 (1) The division shall use a portrait-style format for all identification cards, similar to  
349 the format used for license certificates issued to [~~a person~~] an individual younger than 21 years  
350 [~~of age~~] old under Section [53-3-207](#).

351 (2) The identification card issued to [~~a person~~] an individual younger than 21 years [~~of~~  
352 ~~age~~] old shall be distinguished by use of plainly printed information or by the use of a color or  
353 other means not used for the identification card issued to [~~a person~~] an individual 21 years [~~of~~  
354 ~~age~~] old or older.

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

359 [~~(b) younger than 19 years of age by plainly printing the date the identification card~~  
360 ~~holder is 19 years of age, which is the legal age for purchasing tobacco products under Section~~  
361 ~~[76-10-104](#).]~~

362 (4) The division shall distinguish a limited-term identification card by clearly  
363 indicating on the card:

364 (a) that it is temporary; and

365 (b) its expiration date.

366 Section 8. Section **59-14-703** is amended to read:

367 **59-14-703. Certification of cigarette rolling machine operators -- Renewal of**  
368 **certification -- Requirements for certification or renewal of certification -- Denial.**

369 (1) A cigarette rolling machine operator may not perform the following without first  
370 obtaining certification from the commission as provided in this part:

371 (a) locate a cigarette rolling machine within this state;

372 (b) make or offer to make a cigarette rolling machine available for use within this state;

373 or

374 (c) offer a cigarette for sale within this state if the cigarette is produced by:

375 (i) the cigarette rolling machine operator; or

376 (ii) another person at the location of the cigarette rolling machine operator's cigarette  
377 rolling machine.

378 (2) A cigarette rolling machine operator shall renew its certification as provided in this  
379 section.

380 (3) The commission shall prescribe a form for certifying a cigarette rolling machine  
381 operator under this part.

382 (4) (a) A cigarette rolling machine operator shall apply to the commission for  
383 certification before the cigarette rolling machine operator performs an act described in  
384 Subsection (1) within the state for the first time.

385 (b) A cigarette rolling machine operator shall apply to the commission for a renewal of  
386 certification on or before the earlier of:

387 (i) December 31 of each year; or

388 (ii) the day on which there is a change in any of the information the cigarette rolling  
389 machine operator provides on the form described in Subsection (3).

390 (5) To obtain certification or renewal of certification under this section from the  
391 commission, a cigarette rolling machine operator shall:

- 392 (a) identify:
- 393 (i) the cigarette rolling machine operator's name and address;
- 394 (ii) the location, make, and brand of the cigarette rolling machine operator's cigarette
- 395 rolling machine; and
- 396 (iii) each person from whom the cigarette rolling machine operator will purchase or be
- 397 provided tobacco products that the cigarette rolling machine operator will use to produce
- 398 cigarettes; and
- 399 (b) certify, under penalty of perjury, that:
- 400 (i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling
- 401 machine, regardless of the tobacco's label or description, shall be only of a:
- 402 (A) brand family listed on the commission's directory listing required by Section
- 403 [59-14-603](#); and
- 404 (B) tobacco product manufacturer listed on the commission's directory listing required
- 405 by Section [59-14-603](#);
- 406 (ii) the cigarette rolling machine operator shall prohibit another person who uses the
- 407 cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or
- 408 a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette
- 409 rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);
- 410 (iii) the cigarette rolling machine operator holds a current license issued in accordance
- 411 with this chapter;
- 412 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title
- 413 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection
- 414 Act;
- 415 (v) the cigarette rolling machine shall be located in a separate and defined area where
- 416 the cigarette rolling machine operator ensures that ~~[a person]~~ an individual younger than ~~[+9~~
- 417 ~~years of]~~ the age specified in Subsection (6) may not be:
- 418 (A) present at any time; or
- 419 (B) permitted to enter at any time; and

420 (vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer,  
421 or sell cigarettes produced from a cigarette rolling machine in a quantity of less than 20  
422 cigarettes per retail transaction.

423 (6) For purposes of Subsection (5), an individual is younger than:

424 (a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

425 (b) beginning July 1, 2021, 21 years old.

426 [~~(6)~~] (7) If the commission determines that a cigarette rolling machine operator meets  
427 the requirements for certification or renewal of certification under this section, the commission  
428 shall grant the certification or renewal of certification.

429 [~~(7)~~] (8) If the commission determines that a cigarette rolling machine operator does  
430 not meet the requirements for certification or renewal of certification under this section, the  
431 commission shall:

432 (a) deny the certification or renewal of certification; and

433 (b) provide the cigarette rolling machine operator the grounds for denial of the  
434 certification or renewal of certification in writing.

435 Section 9. Section **76-10-103** is amended to read:

436 **76-10-103. Permitting minors to use tobacco in place of business.**

437 It is a class C misdemeanor for the proprietor of any place of business to knowingly  
438 permit [~~persons~~] an individual under [~~age 19~~] the following ages to frequent a place of business  
439 while [~~they are~~] the individual is using tobacco[~~:-~~];

440 (1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and

441 (2) beginning July 1, 2021, under 21 years old.

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

443 **76-10-104. Providing a cigar, cigarette, electronic cigarette, or tobacco to a minor**  
444 **-- Penalties.**

445 (1) [~~Any~~] A person violates this section who knowingly, intentionally, recklessly, or  
446 with criminal negligence provides [~~any~~] a cigar, cigarette, electronic cigarette, or tobacco in  
447 any form, to [~~any person under 19 years of age~~] an individual under the following ages, is



448 guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second  
449 offense, and a class A misdemeanor on subsequent offenses[?]:

450 (a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

451 (b) beginning July 1, 2021, 21 years old.

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

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

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

458 Section 11. Section **76-10-104.1** is amended to read:

459 **76-10-104.1. Providing tobacco paraphernalia to minors -- Penalties.**

460 (1) For purposes of this section:

461 (a) "Provides":

462 (i) includes selling, giving, furnishing, sending, or causing to be sent; and

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

467 (b) "Tobacco paraphernalia":

468 (i) means [~~any~~] equipment, product, or material of any kind [~~which~~] that is used,  
469 intended for use, or designed for use to package, repack, store, contain, conceal, ingest,  
470 inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body,  
471 including:

472 (A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without  
473 screens, permanent screens, hashish heads, or punctured metal bowls;

474 (B) water pipes;

475 (C) carburetion tubes and devices;

- 476 (D) smoking and carburetion masks;
- 477 (E) roach clips[?], meaning objects used to hold burning material, such as a cigarette,
- 478 that has become too small or too short to be held in the hand;
- 479 (F) chamber pipes;
- 480 (G) carburetor pipes;
- 481 (H) electric pipes;
- 482 (I) air-driven pipes;
- 483 (J) chillums;
- 484 (K) bonges; and
- 485 (L) ice pipes or chillers; and
- 486 (ii) does not include matches or lighters.

487 (2) (a) It is unlawful for a person to knowingly, intentionally, recklessly, or with

488 criminal negligence provide ~~[any]~~ tobacco paraphernalia to ~~[any person]~~ an individual under

489 ~~[19 years of age.];~~

490 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

491 (ii) beginning July 1, 2021, 21 years old.

492 (b) A person who violates this section is guilty of a class C misdemeanor on the first

493 offense and a class B misdemeanor on subsequent offenses.

494 Section 12. Section **76-10-105** is amended to read:

495 **76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco**

496 **by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

497 (1) ~~[Any 18 year old person]~~ (a) An individual who is 18 years or older, but younger

498 than the age specified in Subsection (1)(b), and buys or attempts to buy, accepts, or has in the

499 [person's] individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any

500 form is guilty of [a class C misdemeanor] an infraction and subject to:

501 ~~[(a)]~~ (i) a minimum fine or penalty of \$60; and

502 ~~[(b)]~~ (ii) participation in a court-approved tobacco education or cessation program,

503 which may include a participation fee.

- 504 (b) For purposes of Subsection (1)(a), the individual is younger than:  
505 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and  
506 (ii) beginning July 1, 2021, 21 years old.
- 507 (2) ~~[Any person]~~ An individual under the age of 18 who buys or attempts to buy,  
508 accepts, or has in the ~~[person's]~~ individual's possession any cigar, cigarette, electronic cigarette,  
509 or tobacco in any form is subject to the jurisdiction of the juvenile court and subject to Section  
510 [78A-6-602](#), unless the violation is committed on school property. If a violation under this  
511 section is adjudicated under Section [78A-6-117](#), the minor may be subject to the following:
- 512 (a) a fine or penalty, in accordance with Section [78A-6-117](#); and  
513 (b) participation in a court-approved tobacco education program, which may include a  
514 participation fee.
- 515 (3) A compliance officer appointed by a board of education under Section [53G-4-402](#)  
516 may not issue a citation for a violation of this section committed on school property. A cited  
517 violation committed on school property shall be addressed in accordance with Section  
518 [53G-8-211](#).
- 519 (4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,  
520 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older  
521 and is:
- 522 (i) on active duty in the United States Armed Forces; or  
523 (ii) a spouse or dependent of an individual who is on active duty in the United States  
524 Armed Forces.
- 525 (b) A valid, government-issued military identification card is required to verify proof  
526 of age under Subsection (4)(a).
- 527 Section 13. Section **76-10-105.1** is amended to read:
- 528 **76-10-105.1. Requirement of direct, face-to-face sale of cigarettes, tobacco, and**  
529 **electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.**
- 530 (1) As used in this section:
- 531 (a) "Cigarette" means the same as that term is defined in Section [59-14-102](#).

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

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

535 (A) vending machine; or

536 (B) self-service display.

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

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

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

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

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

546 (f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is  
547 defined:

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

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

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

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

553 (a) a mail-order, telephone, or Internet sale made in compliance with Section  
554 [59-14-509](#);

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

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

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

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

561 (4) (a) An individual who is less than ~~[19 years old]~~ the age specified in Subsection

562 (4)(b) may not enter or be present at a tobacco specialty shop unless the individual is:

563 ~~[(a)]~~ (i) accompanied by a parent or legal guardian;

564 ~~[(b)]~~ (ii) present at the tobacco shop for a bona fide commercial purpose other than to

565 purchase a cigarette, tobacco, or an electronic cigarette; or

566 ~~[(c)]~~ (iii) 18 years old or older and an active duty member of the United States Armed

567 Forces, as demonstrated by a valid, government-issued military identification card.

568 (b) For purposes of Subsection (4)(a), the individual is younger than:

569 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

570 (ii) beginning July 1, 2021, 21 years old.

571 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)(i), an

572 individual into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not

573 allow the individual to purchase a cigarette, tobacco, or an electronic cigarette.

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

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

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

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

578 (7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor

579 under Section ~~76-10-104~~.

580 (8) (a) ~~[Any]~~ An ordinance, regulation, or rule adopted by the governing body of a

581 political subdivision of the state or by a state agency that affects the sale, minimum age of sale,

582 placement, or display of cigarettes, tobacco, or electronic cigarettes that is not essentially

583 identical to ~~[the provisions of]~~ this section and Section ~~76-10-102~~ is superseded.

584 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use

585 ordinance by a municipal or county government.

586 Section 14. Section ~~77-39-101~~ is amended to read:

587 **77-39-101. Investigation of sales of alcohol, tobacco, and electronic cigarettes to**

588 **underage individuals.**

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

590 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer

591 Classifications, may investigate the possible violation of:

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

594 (ii) Section 76-10-104 by requesting an individual under the age [~~of 19 years~~] specified  
595 in Subsection (2)(e) to enter into and attempt to purchase or make a purchase from a retail  
596 establishment of:

597 (A) a cigar;

598 (B) a cigarette;

599 (C) tobacco in any form; or

600 (D) an electronic cigarette.

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

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

606 (i) alcohol; or

607 (ii) (A) a cigar;

608 (B) a cigarette;

609 (C) tobacco in any form; or

610 (D) an electronic cigarette.

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

613 (e) For purposes of Subsection (2)(a)(ii), the individual is younger than:

614 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

615 (ii) beginning July 1, 2021, 21 years old.

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

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

620 (i) be a trained volunteer; or

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

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

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

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

633 (i) on a random basis; and

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

636 (A) two times for the attempted purchase of:

637 (I) a cigar;

638 (II) a cigarette;

639 (III) tobacco in any form; or

640 (IV) an electronic cigarette; and

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

642 (b) ~~[Nothing in this section shall]~~ This section does not prohibit an investigation or an  
643 attempt to purchase tobacco under this section if:

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

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

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

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

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

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

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

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

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

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

661 **Section 15. Effective date.**

662 This bill takes effect on July 1, 2020.