

Representative Steve Eliason proposes the following substitute bill:

TOBACCO AGE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ tiers the minimum age for obtaining, possessing, using, providing, or furnishing of tobacco products, paraphernalia, and under certain circumstances, electronic smoking devices from 19 to 20 then to 21 years of age;
- ▶ preempts certain local government regulation relating to cigarettes, electronic cigarettes, or tobacco;
- ▶ provides exceptions for military members, their spouses, and dependents;
- ▶ addresses identification documents; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



26 AMENDS:

- 27 **10-8-47**, as last amended by Laws of Utah 2018, Chapter 189
- 28 **26-62-205**, as enacted by Laws of Utah 2018, Chapter 231
- 29 **26-62-304**, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 30 **26-62-305**, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 31 **51-9-203**, as last amended by Laws of Utah 2012, Chapter 242
- 32 **53-3-207**, as last amended by Laws of Utah 2016, Chapter 350
- 33 **53-3-806**, as last amended by Laws of Utah 2010, Chapter 276
- 34 **59-14-703**, as enacted by Laws of Utah 2013, Chapter 148
- 35 **76-10-103**, as enacted by Laws of Utah 1973, Chapter 196
- 36 **76-10-104**, as last amended by Laws of Utah 2010, Chapter 114
- 37 **76-10-104.1**, as last amended by Laws of Utah 2013, Chapter 278
- 38 **76-10-105**, as last amended by Laws of Utah 2018, Chapter 415
- 39 **76-10-105.1**, as last amended by Laws of Utah 2018, Chapter 231
- 40 **77-39-101**, as last amended by Laws of Utah 2018, Chapter 231

41 ENACTS:

42 **76-10-105.2**, Utah Code Annotated 1953



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

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

46 **10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit**
 47 **larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses**
 48 **and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of**
 49 **controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

50 (1) A municipal legislative body may:

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

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

56 (c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in

57 accordance with Section [53-7-225](#), or any other dangerous or combustible material;

58 (d) provide against and prevent the offense of obtaining money or property under false
59 pretenses and the offense of embezzling money or property in ~~[a]~~ the cases ~~[where]~~ when the
60 money or property embezzled or obtained under false pretenses does not exceed in value the
61 sum of \$500; ~~[and]~~

62 (e) prohibit the sale, giving away, or furnishing of narcotics~~;~~ or alcoholic beverages to
63 ~~[a person]~~ an individual younger than 21 years of age~~[-, or tobacco to any person younger than~~
64 ~~19 years of age.]; and~~

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

67 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years of age; and

68 (ii) beginning July 1, 2021, 21 years of age.

69 (2) A city may:

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

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

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

79 **26-62-205. Permit requirements for a retail tobacco specialty business.**

80 A retail tobacco specialty business shall:

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

83 (a) beginning July 1, 2020, and ending June 30, 2021, under 20 years of age; and

84 (b) beginning July 1, 2021, under 21 years of age; and

85 (2) prominently display at the retail tobacco specialty business a sign on the public
86 entrance of the business that communicates the prohibition in Subsection [76-10-105.1\(4\)](#).

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

88 **26-62-304. Hearing -- Evidence of criminal conviction.**

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

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

96 (b) beginning July 1, 2021, under 21 years of age.

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

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

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

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

103 **26-62-305. Penalties.**

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

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

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

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

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

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

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

119 (3) The department or a local health department may:
120 (a) revoke a permit if a fourth violation occurs within two years of three previous
121 violations;
122 (b) in addition to a monetary penalty imposed under Subsection (2), suspend the permit
123 if the violation is due to a sale of tobacco products to ~~[a person]~~ an individual under ~~[19 years~~
124 ~~of age]~~;
125 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years of age; and
126 (ii) beginning July 1, 2021, 21 years of age; and
127 (c) if applicable, recommend to a municipality or county that a retail tobacco specialty
128 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.
129 (4) (a) Except when a transfer described in Subsection (5) occurs, a local health
130 department may not issue a permit to:
131 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (3);
132 or
133 (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner,
134 or other holder of significant interest as another tobacco retailer for whom a permit is
135 suspended or revoked under Subsection (3).
136 (b) A person whose permit:
137 (i) is suspended under this section may not apply for a new permit for any other
138 tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends
139 the permit; and
140 (ii) is revoked may not apply for a new permit for any tobacco retailer for a period of
141 24 months after the day on which an enforcing agency revokes the permit.
142 (5) Violations of this chapter, Section 10-8-41.6, or Section 17-50-333 that occur at a
143 tobacco retailer location shall stay on the record for that tobacco retailer location unless:
144 (a) the tobacco retailer is transferred to a new proprietor; and
145 (b) the new proprietor provides documentation to the local health department that the
146 new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous
147 proprietor.
148 Section 5. Section 51-9-203 is amended to read:
149 **51-9-203. Requirements for tobacco programs.**

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

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

154 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate
155 sound management and periodic evaluation of the campaign's relevance to the intended
156 audience, particularly in campaigns directed toward youth, including audience awareness of the
157 campaign and recollection of the main message;

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

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

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

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

165 (C) if directed toward youth:

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

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

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

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

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

174 (A) beginning July 1, 2020, and ending June 30, 2021, 20 years of age; and

175 (B) beginning July 1, 2021, 21 years of age;

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

178 (i) the amount funded;

179 (ii) the amount expended;

180 (iii) a description of the program or campaign and the number of adults and youth who

181 participated;

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

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

185 (c) agree, by contract, to not use any funds received under this part directly or
186 indirectly, to:

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

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

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

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

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

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

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

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

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

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

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

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

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

205 (3) The Department of Health shall annually report to the Social Services
206 Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).

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

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

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

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

212 be repaid to the state under this section.

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

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

216 **53-3-207. License certificates or driving privilege cards issued to drivers by class**
217 **of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary**
218 **licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**

219 (1) As used in this section:

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

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

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

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

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

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

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

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

240 (ii) the name, birth date, and Utah residence address of the [~~person~~] individual;

241 (iii) a brief description of the [~~person~~] individual for the purpose of identification;

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

- 243 (v) a photograph of the [person] individual;
- 244 (vi) a photograph or other facsimile of the person's signature;
- 245 (vii) an indication whether the [person] individual intends to make an anatomical gift
246 under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege
247 is extended under Subsection 53-3-214(3); and
- 248 (viii) except as provided in Subsection (3)(b), if the [person] individual states that the
249 [person] individual is a veteran of the United States military on the application for a driver
250 license in accordance with Section 53-3-205 and provides verification that the [person]
251 individual was granted an honorable or general discharge from the United States Armed
252 Forces, an indication that the [person] individual is a United States military veteran for a
253 regular license certificate or limited-term license certificate issued on or after July 1, 2011.
- 254 (b) A regular license certificate or limited-term license certificate issued to [any
255 person] an individual younger than 21 years on a portrait-style format as required in Subsection
256 (5)(b)(~~†~~) is not required to include an indication that the [person] individual is a United States
257 military veteran under Subsection (3)(a)(viii).
- 258 (c) A new license certificate issued by the division may not bear the [person's Social
259 Security] individual's social security number.
- 260 (d) (i) The regular license certificate, limited-term license certificate, or driving
261 privilege card shall be of an impervious material, resistant to wear, damage, and alteration.
- 262 (ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular
263 license certificate, limited-term license certificate, or driving privilege card shall be as
264 prescribed by the commissioner.
- 265 (iii) The commissioner may also prescribe the issuance of a special type of limited
266 regular license certificate, limited-term license certificate, or driving privilege card under
267 Subsection 53-3-220(4).
- 268 (4) (a) (i) The division, upon determining after an examination that an applicant is
269 mentally and physically qualified to be granted a driving privilege, may issue to an applicant a
270 receipt for the fee if the applicant is eligible for a regular license certificate or limited-term
271 license certificate.
- 272 (ii) (A) The division shall issue a temporary regular license certificate or temporary
273 limited-term license certificate allowing the [person] individual to drive a motor vehicle while

274 the division is completing its investigation to determine whether the [person] individual is
275 entitled to be granted a driving privilege.

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

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

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

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

289 (ii) The division may issue a learner permit issued in accordance with Section
290 [53-3-210.5](#) to an applicant for a driving privilege card.

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

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

303 ~~[(ii) younger than 19 years of age, by plainly printing the date the regular license
304 certificate, limited-term license certificate, or driving privilege card holder is 19 years of age,~~

305 which is the legal age for purchasing tobacco products under Section ~~76-10-104~~].

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

308 (a) that it is temporary; and

309 (b) its expiration date.

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

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

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

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

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

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

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

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

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

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

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

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

334 Section 7. Section ~~53-3-806~~ is amended to read:

335 **53-3-806. Portrait-style format -- Minor's card distinguishable.**

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

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

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

347 ~~[(b) younger than 19 years of age by plainly printing the date the identification card~~
348 ~~holder is 19 years of age, which is the legal age for purchasing tobacco products under Section~~
349 ~~76-10-104.]~~

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

- 352 (a) that it is temporary; and
- 353 (b) its expiration date.

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

355 **59-14-703. Certification of cigarette rolling machine operators -- Renewal of**
356 **certification -- Requirements for certification or renewal of certification -- Denial.**

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

- 359 (a) locate a cigarette rolling machine within this state;
- 360 (b) make or offer to make a cigarette rolling machine available for use within this state;

361 or

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

- 363 (i) the cigarette rolling machine operator; or
- 364 (ii) another person at the location of the cigarette rolling machine operator's cigarette
365 rolling machine.

366 (2) A cigarette rolling machine operator shall renew its certification as provided in this

367 section.

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

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

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

375 (i) December 31 of each year; or

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

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

380 (a) identify:

381 (i) the cigarette rolling machine operator's name and address;

382 (ii) the location, make, and brand of the cigarette rolling machine operator's cigarette
383 rolling machine; and

384 (iii) each person from whom the cigarette rolling machine operator will purchase or be
385 provided tobacco products that the cigarette rolling machine operator will use to produce
386 cigarettes; and

387 (b) certify, under penalty of perjury, that:

388 (i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling
389 machine, regardless of the tobacco's label or description, shall be only of a:

390 (A) brand family listed on the commission's directory listing required by Section
391 59-14-603; and

392 (B) tobacco product manufacturer listed on the commission's directory listing required
393 by Section 59-14-603;

394 (ii) the cigarette rolling machine operator shall prohibit another person who uses the
395 cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or
396 a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette
397 rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);

398 (iii) the cigarette rolling machine operator holds a current license issued in accordance
399 with this chapter;

400 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title
401 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection
402 Act;

403 (v) the cigarette rolling machine shall be located in a separate and defined area where
404 the cigarette rolling machine operator ensures that ~~[a person]~~ an individual younger than ~~[+9~~
405 ~~years of]~~ the age specified in Subsection (6) may not be:

406 (A) present at any time; or

407 (B) permitted to enter at any time; and

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

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

412 (a) beginning July 1, 2020, and ending June 30, 2021, 20 years of age; and

413 (b) beginning July 1, 2021, 21 years of age.

414 ~~[(6)]~~ (7) If the commission determines that a cigarette rolling machine operator meets
415 the requirements for certification or renewal of certification under this section, the commission
416 shall grant the certification or renewal of certification.

417 ~~[(7)]~~ (8) If the commission determines that a cigarette rolling machine operator does
418 not meet the requirements for certification or renewal of certification under this section, the
419 commission shall:

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

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

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

424 **76-10-103. Permitting minors to use tobacco in place of business.**

425 It is a class C misdemeanor for the proprietor of any place of business to knowingly
426 permit ~~[persons]~~ an individual under ~~[age +9]~~ the following ages to frequent a place of business
427 while ~~[they are]~~ the individual is using tobacco[-]:

428 (1) beginning July 1, 2020, and ending June 30, 2021, under 20 years of age; and

429 (2) beginning July 1, 2021, under 21 years of age.

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

431 **76-10-104. Providing a cigar, cigarette, electronic cigarette, or tobacco to a minor**

432 **-- Penalties.**

433 (1) [~~Any~~] A person violates this section who knowingly, intentionally, recklessly, or
434 with criminal negligence provides [~~any~~] a cigar, cigarette, electronic cigarette, or tobacco in
435 any form, to [~~any person under 19 years of age~~] an individual under the following ages, is
436 guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second
437 offense, and a [~~class A misdemeanor~~] felony of the third degree on subsequent offenses[-]:

438 (a) beginning July 1, 2020, and ending June 30, 2021, 20 years of age; and

439 (b) beginning July 1, 2021, 21 years of age.

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

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

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

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

447 **76-10-104.1. Providing tobacco paraphernalia to minors -- Penalties.**

448 (1) For purposes of this section:

449 (a) "Provides":

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

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

455 (b) "Tobacco paraphernalia":

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

- 460 (A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
- 461 screens, permanent screens, hashish heads, or punctured metal bowls;
- 462 (B) water pipes;
- 463 (C) carburetion tubes and devices;
- 464 (D) smoking and carburetion masks;
- 465 (E) roach clips^[:], meaning objects used to hold burning material, such as a cigarette,
- 466 that has become too small or too short to be held in the hand;
- 467 (F) chamber pipes;
- 468 (G) carburetor pipes;
- 469 (H) electric pipes;
- 470 (I) air-driven pipes;
- 471 (J) chillums;
- 472 (K) bongs; and
- 473 (L) ice pipes or chillers; and
- 474 (ii) does not include matches or lighters.

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

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

477 ~~[19 years of age.];~~

- 478 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years of age; and
- 479 (ii) beginning July 1, 2021, 21 years of age.

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

481 offense and a class B misdemeanor on subsequent offenses.

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

483 **76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco**

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

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

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

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

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

- 489 ~~[(a)]~~ (i) a minimum fine or penalty of ~~[\$60]~~ \$100; and
- 490 ~~[(b)]~~ (ii) participation in a court-approved tobacco education or cessation program,

491 which may include a participation fee.

492 (b) For purposes of Subsection (1)(a), the individual is younger than:

493 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years of age; and

494 (ii) beginning July 1, 2021, 21 years of age.

495 (2) [~~Any person~~] An individual under the age of 18 who buys or attempts to buy,
496 accepts, or has in the [~~person's~~] individual's possession any cigar, cigarette, electronic cigarette,
497 or tobacco in any form is subject to the jurisdiction of the juvenile court and subject to Section
498 [78A-6-602](#), unless the violation is committed on school property. If a violation under this
499 section is adjudicated under Section [78A-6-117](#), the minor may be subject to the following:

500 (a) a fine or penalty, in accordance with Section [78A-6-117](#); and

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

503 (3) A compliance officer appointed by a board of education under Section [53G-4-402](#)
504 may not issue a citation for a violation of this section committed on school property. A cited
505 violation committed on school property shall be addressed in accordance with Section
506 [53G-8-211](#).

507 Section 13. Section [76-10-105.1](#) is amended to read:

508 **[76-10-105.1. Requirement of direct, face-to-face sale of cigarettes, tobacco, and](#)**
509 **[electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.](#)**

510 (1) As used in this section:

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

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

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

515 (A) vending machine; or

516 (B) self-service display.

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

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

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

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

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

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

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

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

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

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

533 (a) a mail-order, telephone, or Internet sale made in compliance with Section
534 59-14-509;

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

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

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

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

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

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

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

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

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

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

549 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years of age; and

550 (ii) beginning July 1, 2021, 21 years of age.

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

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

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

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

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

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

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

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

560 (8) (a) ~~[Any]~~ An ordinance, regulation, or rule adopted by the governing body of a
561 political subdivision of the state or by a state agency that affects the sale, wholesale distribution
562 placement, purchase, marketing, or display of cigarettes, tobacco, or electronic cigarettes,
563 including flavors, that is not essentially identical to ~~[the provisions of]~~ this section and Section
564 76-10-102 is superseded.

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

567 (9) (a) This part does not apply to the sale, supply, gift, furnishment, or possession of a
568 cigar, cigarette, electronic cigarette, tobacco, or tobacco paraphernalia to an individual who is
569 18 years old or older and is:

570 (i) on active duty in the United States Armed Forces; or

571 (ii) a spouse or dependent of an individual who is on active duty in the United States
572 Armed Forces.

573 (b) A valid, government-issued military identification card is required to verify proof
574 of age under Subsection (9)(a).

575 Section 14. Section 76-10-105.2 is enacted to read:

576 **76-10-105.2. Ordinances, rules, and regulations on minimum age.**

577 A governing body of a political subdivision of the state or a state agency may not adopt
578 an ordinance, regulation, or rule that affects the minimum age of sale, supply, purchase, gift,
579 furnishment, or possession of a cigar, cigarette, electronic cigarette, tobacco, or tobacco
580 paraphernalia.

581 Section 15. Section 77-39-101 is amended to read:

582 **77-39-101. Investigation of sales of alcohol, tobacco, and electronic smoking**
583 **devices to underage individuals.**

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

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

586 Classifications, may investigate the possible violation of:

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

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

589 (ii) Section 76-10-104 by requesting an individual under the age [~~of 19 years~~] specified

590 in Subsection (2)(e) to enter into and attempt to purchase or make a purchase from a retail

591 establishment of:

592 (A) a cigar;

593 (B) a cigarette;

594 (C) tobacco in any form; or

595 (D) an electronic cigarette.

596 (b) A peace officer who is present at the site of a proposed purchase shall direct,

597 supervise, and monitor the individual requested to make the purchase.

598 (c) Immediately following a purchase or attempted purchase or as soon as practical the

599 supervising peace officer shall inform the cashier and the proprietor or manager of the retail

600 establishment that the attempted purchaser was under the legal age to purchase:

601 (i) alcohol; or

602 (ii) (A) a cigar;

603 (B) a cigarette;

604 (C) tobacco in any form; or

605 (D) an electronic cigarette.

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

607 purchase.

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

609 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years of age; and

610 (ii) beginning July 1, 2021, 21 years of age.

611 (3) (a) If an individual under the age of 18 years old is requested to attempt a purchase,

612 a written consent of that individual's parent or guardian shall be obtained prior to that

613 individual participating in any attempted purchase.

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

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

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

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

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

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

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

- 632 (I) a cigar;
- 633 (II) a cigarette;
- 634 (III) tobacco in any form; or
- 635 (IV) an electronic cigarette; and

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

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

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

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

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

646 was made.

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

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

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

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

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

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

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

656 Section 16. **Effective date.**

657 (1) Except as provided in Subsection (2), Section [76-10-105.2](#) takes effect on May 14,
658 2019.

659 (2) This bill takes effect on July 1, 2020.