

Representative Paul Ray proposes the following substitute bill:

TOBACCO AGE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

6	Cosponsors:	Eric K. Hutchings	Douglas V. Sagers
7	Cheryl K. Acton	Ken Ivory	Lawanna Shurtliff
8	Kyle R. Andersen	Dan N. Johnson	V. Lowry Snow
9	Melissa G. Ballard	Marsha Judkins	Robert M. Spendlove
10	Stewart E. Barlow	Brian S. King	Jeffrey D. Stenquist
11	Joel K. Briscoe	Bradley G. Last	Keven J. Stratton
12	Kay J. Christofferson	Kelly B. Miles	Norman K. Thurston
13	Jennifer Dailey-Provost	Carol Spackman Moss	Steve Waldrip
14	Brad M. Daw	Merrill F. Nelson	Raymond P. Ward
15	Susan Duckworth	Derrin R. Owens	Christine F. Watkins
16	James A. Dunnigan	Lee B. Perry	Elizabeth Weight
17	Stephen G. Handy	Val K. Potter	Mike Winder
18	Jon Hawkins	Marie H. Poulson	
19	Sandra Hollins	Susan Pulsipher	



LONG TITLE

General Description:

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



25 **Highlighted Provisions:**

26 This bill:

- 27 ▶ tiers the minimum age for obtaining, possessing, using, providing, or furnishing of
- 28 tobacco products, paraphernalia, and under certain circumstances, electronic
- 29 cigarettes from 19 to 20, then to 21 years old;
- 30 ▶ preempts certain local government regulation relating to cigarettes, electronic
- 31 cigarettes, or tobacco;
- 32 ▶ addresses identification documents; and
- 33 ▶ makes technical and conforming changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 This bill provides a special effective date.

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **10-8-47**, as last amended by Laws of Utah 2018, Chapter 189

41 **26-62-205**, as enacted by Laws of Utah 2018, Chapter 231

42 **26-62-304**, as renumbered and amended by Laws of Utah 2018, Chapter 231

43 **26-62-305**, as renumbered and amended by Laws of Utah 2018, Chapter 231

44 **51-9-203**, as last amended by Laws of Utah 2012, Chapter 242

45 **53-3-207**, as last amended by Laws of Utah 2016, Chapter 350

46 **53-3-806**, as last amended by Laws of Utah 2010, Chapter 276

47 **59-14-703**, as enacted by Laws of Utah 2013, Chapter 148

48 **76-10-103**, as enacted by Laws of Utah 1973, Chapter 196

49 **76-10-104**, as last amended by Laws of Utah 2010, Chapter 114

50 **76-10-104.1**, as last amended by Laws of Utah 2013, Chapter 278

51 **76-10-105**, as last amended by Laws of Utah 2018, Chapter 415

52 **76-10-105.1**, as last amended by Laws of Utah 2018, Chapter 231

53 **77-39-101**, as last amended by Laws of Utah 2018, Chapter 231

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

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

57 **10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit**
58 **larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses**
59 **and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of**
60 **controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

61 (1) A municipal legislative body may:

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

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

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

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

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

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

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

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

80 (2) A city may:

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

84 (b) provide for treatment of alcoholics, narcotic addicts, and other ~~[persons]~~
85 individuals who are addicted to the use of drugs or intoxicants such that ~~[a person]~~ an
86 individual substantially lacks the capacity to control the ~~[person's]~~ individual's use of the drugs

87 or intoxicants, and judicial supervision may be imposed as a means of effecting ~~[their]~~ the
88 individual's rehabilitation.

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

90 **26-62-205. Permit requirements for a retail tobacco specialty business.**

91 A retail tobacco specialty business shall:

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

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

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

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

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

99 **26-62-304. Hearing -- Evidence of criminal conviction.**

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

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

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

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

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

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

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

114 **26-62-305. Penalties.**

115 (1) (a) If, following an inspection by an enforcing agency, or an investigation or
116 issuance of a citation or information under Section **77-39-101**, an enforcing agency determines
117 that a person has violated the terms of a permit issued under this chapter, the enforcing agency

118 may impose the penalties described in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

147 (b) A person whose permit:

148 (i) is suspended under this section may not apply for a new permit for any other

149 tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends
150 the permit; and

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

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

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

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

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

160 **51-9-203. Requirements for tobacco programs.**

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

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

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

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

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

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

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

176 (C) if directed toward youth:

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

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

179 (III) involves youth in the planning, delivery, and evaluation of services that affect

180 them; and

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

182 (iv) for enforcement, control, and compliance program, the request shall demonstrate

183 that the proposed program can reasonably be expected to reduce the extent to which tobacco

184 products are available to individuals under ~~[the age of 19]~~ the following ages:

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

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

187 (b) agree, by contract, to file an annual written report with the Department of Health[-

188 ~~The report shall contain]~~ that contains the following:

189 (i) the amount funded;

190 (ii) the amount expended;

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

192 participated;

193 (iv) specific elements of the program or campaign meeting the applicable criteria set

194 forth in Subsection (1)(a); and

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

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

197 indirectly, to:

198 (i) engage in any lobbying or political activity, including the support of, or opposition

199 to, candidates, ballot questions, referenda, or similar activities; or

200 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to

201 enforce:

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

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

204 (C) Title 26, Chapter ~~[42, Civil Penalties for Tobacco Sales to Underage Persons]~~ 62,

205 Part 3, Enforcement; and

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

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

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

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

210 (2) The Department of Health shall review and evaluate the success and effectiveness

211 of any program or campaign that receives funding pursuant to a request submitted under
212 Subsection (1). The review and evaluation:

- 213 (a) shall include a comparison of annual smoking trends;
- 214 (b) may be conducted by an independent evaluator; and
- 215 (c) may be paid for by funds appropriated from the account for that purpose.

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

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

- 220 (a) repay the state as provided in Subsection (1)(d); and
 - 221 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.
- 222 (5) The attorney general shall be responsible for recovering funds that are required to
223 be repaid to the state under this section.

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

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

227 **53-3-207. License certificates or driving privilege cards issued to drivers by class**
228 **of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary**
229 **licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**

230 (1) As used in this section:

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

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

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

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

242 instrumentality of the state.

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

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

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

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

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

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

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

254 (v) a photograph of the ~~[person]~~ individual;

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

256 (vii) an indication whether the ~~[person]~~ individual intends to make an anatomical gift
257 under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege
258 is extended under Subsection 53-3-214(3); and

259 (viii) except as provided in Subsection (3)(b), if the ~~[person]~~ individual states that the
260 ~~[person]~~ individual is a veteran of the United States military on the application for a driver
261 license in accordance with Section 53-3-205 and provides verification that the ~~[person]~~
262 individual was granted an honorable or general discharge from the United States Armed
263 Forces, an indication that the ~~[person]~~ individual is a United States military veteran for a
264 regular license certificate or limited-term license certificate issued on or after July 1, 2011.

265 (b) A regular license certificate or limited-term license certificate issued to ~~[any~~
266 ~~person]~~ an individual younger than 21 years on a portrait-style format as required in Subsection
267 (5)(b)~~(f)~~ is not required to include an indication that the ~~[person]~~ individual is a United States
268 military veteran under Subsection (3)(a)(viii).

269 (c) A new license certificate issued by the division may not bear the ~~[person's Social~~
270 ~~Security]~~ individual's social security number.

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

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

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

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

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

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

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

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

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

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

302 (5) (a) The division shall distinguish learner permits, temporary permits, regular
303 license certificates, limited-term license certificates, and driving privilege cards issued to any

304 ~~[person]~~ individual younger than 21 years of age by use of plainly printed information or the
305 use of a color or other means not used for other regular license certificates, limited-term license
306 certificates, or driving privilege cards.

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

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

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

319 (a) that it is temporary; and

320 (b) its expiration date.

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

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

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

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

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

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

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

335 personal identification.

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

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

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

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

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

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

346 **53-3-806. Portrait-style format -- Minor's card distinguishable.**

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

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

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

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

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

363 (a) that it is temporary; and

364 (b) its expiration date.

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

366 **59-14-703. Certification of cigarette rolling machine operators -- Renewal of**
367 **certification -- Requirements for certification or renewal of certification -- Denial.**

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

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

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

372 or

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

374 (i) the cigarette rolling machine operator; or

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

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

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

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

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

386 (i) December 31 of each year; or

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

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

391 (a) identify:

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

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

395 (iii) each person from whom the cigarette rolling machine operator will purchase or be
396 provided tobacco products that the cigarette rolling machine operator will use to produce

397 cigarettes; and

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

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

401 (A) brand family listed on the commission's directory listing required by Section
402 59-14-603; and

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

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

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

411 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title
412 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection
413 Act;

414 (v) the cigarette rolling machine shall be located in a separate and defined area where
415 the cigarette rolling machine operator ensures that [~~a person~~] an individual younger than [~~19~~
416 ~~years of~~] the age specified in Subsection (6) may not be:

417 (A) present at any time; or

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

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

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

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

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

425 [~~(6)~~] (7) If the commission determines that a cigarette rolling machine operator meets
426 the requirements for certification or renewal of certification under this section, the commission
427 shall grant the certification or renewal of certification.

428 ~~[(7)]~~ (8) If the commission determines that a cigarette rolling machine operator does
429 not meet the requirements for certification or renewal of certification under this section, the
430 commission shall:

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

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

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

435 **76-10-103. Permitting minors to use tobacco in place of business.**

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

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

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

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

442 **76-10-104. Providing a cigar, cigarette, electronic cigarette, or tobacco to a minor**
443 **-- Penalties.**

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

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

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

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

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

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

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

458 **76-10-104.1. Providing tobacco paraphernalia to minors -- Penalties.**

459 (1) For purposes of this section:

460 (a) "Provides":

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

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

466 (b) "Tobacco paraphernalia":

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

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

473 (B) water pipes;

474 (C) carburetion tubes and devices;

475 (D) smoking and carburetion masks;

476 (E) roach clips[?], meaning objects used to hold burning material, such as a cigarette,
477 that has become too small or too short to be held in the hand;

478 (F) chamber pipes;

479 (G) carburetor pipes;

480 (H) electric pipes;

481 (I) air-driven pipes;

482 (J) chillums;

483 (K) bongs; and

484 (L) ice pipes or chillers; and

485 (ii) does not include matches or lighters.

486 (2) (a) It is unlawful for a person to knowingly, intentionally, recklessly, or with
487 criminal negligence provide [any] tobacco paraphernalia to [~~any person~~] an individual under
488 [~~+19 years of age.~~];

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

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

491 (b) A person who violates this section is guilty of a class C misdemeanor on the first
492 offense and a class B misdemeanor on subsequent offenses.

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

494 **76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco**
495 **by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

496 (1) [~~Any 18-year-old person~~] (a) An individual who is 18 years or older, but younger
497 than the age specified in Subsection (1)(b), and buys or attempts to buy, accepts, or has in the
498 [person's] individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any
499 form is guilty of [~~a class C misdemeanor~~] an infraction and subject to:

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

501 [~~(b)~~] (ii) participation in a court-approved tobacco education or cessation program,
502 which may include a participation fee.

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

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

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

506 (2) [~~Any person~~] An individual under the age of 18 who buys or attempts to buy,
507 accepts, or has in the [~~person's~~] individual's possession any cigar, cigarette, electronic cigarette,
508 or tobacco in any form is subject to the jurisdiction of the juvenile court and subject to Section
509 **78A-6-602**, unless the violation is committed on school property. If a violation under this
510 section is adjudicated under Section **78A-6-117**, the minor may be subject to the following:

511 (a) a fine or penalty, in accordance with Section **78A-6-117**; and

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

514 (3) A compliance officer appointed by a board of education under Section **53G-4-402**
515 may not issue a citation for a violation of this section committed on school property. A cited
516 violation committed on school property shall be addressed in accordance with Section
517 **53G-8-211**.

518 Section 13. Section **76-10-105.1** is amended to read:

519 **76-10-105.1. Requirement of direct, face-to-face sale of cigarettes, tobacco, and**
520 **electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.**

521 (1) As used in this section:

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

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

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

526 (A) vending machine; or

527 (B) self-service display.

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

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

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

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

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

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

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

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

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

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

544 (a) a mail-order, telephone, or Internet sale made in compliance with Section
545 59-14-509;

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

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

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

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

552 (4) (a) An individual who is less than [~~19 years old~~] the age specified in Subsection
553 (4)(b) may not enter or be present at a tobacco specialty shop unless the individual is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

578 **77-39-101. Investigation of sales of alcohol, tobacco, and electronic smoking**
579 **devices to underage individuals.**

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

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

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

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

588 (A) a cigar;

589 (B) a cigarette;

590 (C) tobacco in any form; or

591 (D) an electronic cigarette.

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

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

597 (i) alcohol; or

598 (ii) (A) a cigar;

599 (B) a cigarette;

600 (C) tobacco in any form; or

601 (D) an electronic cigarette.

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

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

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

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

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

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

611 (i) be a trained volunteer; or

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

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

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

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

624 (i) on a random basis; and

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

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

628 (I) a cigar;

629 (II) a cigarette;

630 (III) tobacco in any form; or

631 (IV) an electronic cigarette; and

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

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

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

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

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

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

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

- 645 (ii) the name of the individual attempting the purchase;
- 646 (iii) a photograph of the individual attempting the purchase showing how that
- 647 individual appeared at the time of the attempted purchase;
- 648 (iv) the name and description of the cashier or proprietor from whom the individual
- 649 attempted the purchase;
- 650 (v) the name and address of the retail establishment; and
- 651 (vi) the date and time of the attempted purchase.

652 **Section 15. Effective date.**

653 This bill takes effect on July 1, 2020.