

Representative Jon Hawkins proposes the following substitute bill:

TOBACCO AND ELECTRONIC CIGARETTE AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon Hawkins

Senate Sponsor: Kirk A. Cullimore

6	Cosponsors:	Suzanne Harrison	Angela Romero
7	Cheryl K. Acton	Sandra Hollins	Rex P. Shipp
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9	Kyle R. Andersen	Marsha Judkins	V. Lowry Snow
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19	Susan Duckworth	Candice B. Pierucci	Logan Wilde
20	Joel Ferry	Marie H. Poulson	Brad R. Wilson
21	Craig Hall	Susan Pulsipher	Mike Winder
22	Stephen G. Handy	Adam Robertson	

23 _____
24 **LONG TITLE**



25 **General Description:**

26 This bill amends provisions related to tobacco products and electronic cigarettes.

27 **Highlighted Provisions:**

28 This bill:

- 29 ▶ defines terms related to electronic cigarettes and tobacco retailers;
- 30 ▶ modifies the definition of a retail tobacco specialty business;
- 31 ▶ amends permit violations for tobacco retailers;
- 32 ▶ creates requirements regarding verification of age for retail tobacco specialty
- 33 businesses;
- 34 ▶ modifies and places sunset provisions on dates from which certain laws are
- 35 applicable to retail tobacco specialty businesses;
- 36 ▶ makes it a crime to fraudulently use or transfer proof of age to gain access to a retail
- 37 tobacco specialty business or to purchase a tobacco product or electronic cigarette
- 38 product;
- 39 ▶ creates civil penalties for a retail tobacco specialty business that allows an
- 40 individual under 21 years old in certain circumstances to gain access to the premises
- 41 of the business or to purchase a tobacco product or an electronic cigarette product;
- 42 ▶ increases the minimum age for obtaining, possessing, using, providing, or
- 43 furnishing tobacco products and paraphernalia and electronic cigarette products to
- 44 21 years old;
- 45 ▶ makes it a crime for an employee of a retail tobacco specialty business to allow an
- 46 individual under 21 years old to purchase a tobacco product or an electronic
- 47 cigarette product;
- 48 ▶ amends the number of times that a peace officer must conduct an investigation of a
- 49 retail shop for underage tobacco sales; and
- 50 ▶ makes technical and conforming changes.

51 **Money Appropriated in this Bill:**

52 None

53 **Other Special Clauses:**

54 This bill provides a special effective date.

55 **Utah Code Sections Affected:**

56 AMENDS:

57 **10-8-41.6**, as last amended by Laws of Utah 2018, Chapter 231

58 **10-8-47 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

59 **17-50-333**, as last amended by Laws of Utah 2018, Chapter 231

60 **26-62-102**, as renumbered and amended by Laws of Utah 2018, Chapter 231

61 **26-62-205 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

62 **26-62-304 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

63 **26-62-305 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

64 **51-9-203 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapters 136

65 and 232

66 **53-3-229**, as last amended by Laws of Utah 2010, Chapters 114 and 276

67 **53-3-810**, as last amended by Laws of Utah 2010, Chapters 114 and 276

68 **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293

69 **59-14-703 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

70 **63I-1-210**, as last amended by Laws of Utah 2018, Chapter 236

71 **63I-1-217**, as last amended by Laws of Utah 2018, Chapters 236 and 347

72 **76-8-311.3**, as last amended by Laws of Utah 2010, Chapter 114

73 **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended
74 by Coordination Clause, Laws of Utah 2015, Chapter 132

75 **76-10-103 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

76 **76-10-104 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

77 **76-10-104.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

78 **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

79 **76-10-105.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

80 **77-39-101 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

81 ENACTS:

82 **26-62-401**, Utah Code Annotated 1953

83 **26-62-402**, Utah Code Annotated 1953

84 **76-10-113**, Utah Code Annotated 1953

85 **76-10-114**, Utah Code Annotated 1953

86

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

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

89 **10-8-41.6. Regulation of retail tobacco specialty business.**

90 (1) As used in this section:

91 (a) "Community location" means:

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

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

94 (iii) a trade or technical school;

95 (iv) a church;

96 (v) a public library;

97 (vi) a public playground;

98 (vii) a public park;

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

100 (ix) a public recreational facility;

101 (x) a public arcade; or

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

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

104 (c) "Local health department" means the same as that term is defined in Section
105 [26A-1-102](#).

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

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

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

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

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

115 (iv) the commercial establishment:

116 (A) holds itself out as a retail tobacco specialty business;

117 (B) causes a reasonable person to believe the commercial establishment is a retail

118 tobacco specialty business; and

119 (C) is not a licensee under Section 59-13-203.1 or 59-13-302; or

120 ~~[(iv)]~~ (v) the retail space features a self-service display for tobacco products.

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

122 76-10-105.1.

123 (g) "Tobacco product" means:

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

126 ~~[(ii) (i) a tobacco product, as that term is defined in Section 59-14-102, including;~~
127 76-10-101;

128 ~~[(A) chewing tobacco; or]~~

129 ~~[(B) any substitute for a tobacco product, including flavoring or additives to tobacco;~~
130 ~~and]~~

131 (ii) an electronic cigarette product, as that term is defined in Section 76-10-101; or

132 (iii) tobacco paraphernalia, as that term is defined in Section ~~[76-10-104.1] 76-10-101.~~

133 (2) The regulation of a retail tobacco specialty business is an exercise of the police
134 powers of the state~~[-, and through delegation,]~~ by the state or by delegation of the state's police
135 powers to other governmental entities.

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

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

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

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

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

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

147 (A) agriculture use; or

148 (B) residential use.

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

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

157 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter
158 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in
159 which the retail tobacco specialty business is located; and

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

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

164 (6) (a) Nothing in this section:

165 (i) requires a municipality to issue a retail tobacco specialty business license; or

166 (ii) prohibits a municipality from adopting more restrictive requirements on a person
167 seeking a license or renewal of a license to conduct business as a retail tobacco specialty
168 business.

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

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

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

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

179 (iv) under any other provision of state law or local ordinance.

180 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has
181 a business license and is operating in a municipality in accordance with all applicable laws
182 except for the requirement in Subsection (4), on or before December 31, [~~2015~~] 2018, is
183 exempt from Subsection (4).

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

186 (i) the retail tobacco specialty business license is renewed continuously without lapse
187 or permanent revocation;

188 (ii) the retail tobacco specialty business does not close for business or otherwise
189 suspend the sale of tobacco products for more than 60 consecutive days;

190 (iii) the retail tobacco specialty business does not substantially change the business
191 premises or business operation; and

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

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

195 (B) zoning ordinances;

196 (C) building codes; and

197 (D) the requirements of a retail tobacco specialty business license issued before
198 December 31, [~~2015~~] 2018.

199 Section 2. Section **10-8-47 (Effective 07/01/20)** is amended to read:

200 **10-8-47 (Effective 07/01/20). Intoxication -- Fights -- Disorderly conduct --**
201 **Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and**
202 **fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to**
203 **minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or**
204 **drug addicts.**

205 (1) A municipal legislative body may:

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

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

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

213 (d) provide against and prevent the offense of obtaining money or property under false
214 pretenses and the offense of embezzling money or property in the cases when the money or
215 property embezzled or obtained under false pretenses does not exceed in value the sum of
216 \$500;

217 (e) prohibit the sale, giving away, or furnishing of narcotics or alcoholic beverages to
218 an individual younger than 21 years old; or

219 (f) prohibit the sale, giving away, or furnishing of [~~tobacco or e-cigarettes~~] a tobacco
220 product, as that term is defined in Section [10-8-41.6](#), to an individual younger than[~~:(i)~~
221 ~~beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1,~~
222 ~~2021,~~] 21 years old.

223 (2) A city may:

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

227 (b) provide for treatment of alcoholics, narcotic addicts, and other individuals who are
228 addicted to the use of drugs or intoxicants such that an individual substantially lacks the
229 capacity to control the individual's use of the drugs or intoxicants, and judicial supervision may
230 be imposed as a means of effecting the individual's rehabilitation.

231 Section 3. Section **17-50-333** is amended to read:

232 **17-50-333. Regulation of retail tobacco specialty business.**

233 (1) As used in this section:

234 (a) "Community location" means:

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

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

237 (iii) a trade or technical school;

238 (iv) a church;

239 (v) a public library;

240 (vi) a public playground;

241 (vii) a public park;

- 242 (viii) a youth center or other space used primarily for youth oriented activities;
- 243 (ix) a public recreational facility;
- 244 (x) a public arcade; or
- 245 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 246 (b) "Department" means the Department of Health, created in Section [26-1-4](#).
- 247 (c) "Licensee" means a person licensed under this section to conduct business as a
- 248 retail tobacco specialty business.
- 249 (d) "Local health department" means the same as that term is defined in Section
- 250 [26A-1-102](#).
- 251 (e) "Retail tobacco specialty business" means a commercial establishment in which:
- 252 (i) the sale of tobacco products accounts for more than 35% of the total quarterly gross
- 253 receipts for the establishment;
- 254 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 255 storage of tobacco products;
- 256 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
- 257 tobacco products; [~~or~~]
- 258 (iv) the commercial establishment:
- 259 (A) holds itself out as a retail tobacco specialty business;
- 260 (B) causes a reasonable person to believe the commercial establishment is a retail
- 261 tobacco specialty business; and
- 262 (C) is not a licensee under Section [59-13-203.1](#) or [59-13-302](#); or
- 263 [~~(iv)~~] (v) the retail space features a self-service display for tobacco products.
- 264 (f) "Self-service display" means the same as that term is defined in Section
- 265 [76-10-105.1](#).
- 266 (g) "Tobacco product" means:
- 267 [~~(i) any cigar, cigarette, or electronic cigarette product as those terms are defined in~~
- 268 ~~Section [76-10-101](#);~~]
- 269 [~~(ii)~~] (i) a tobacco product, as that term is defined in Section [59-14-102](#), including:
- 270 [76-10-101](#);
- 271 [~~(A) chewing tobacco; or~~]
- 272 [~~(B) any substitute for a tobacco product, including flavoring or additives to tobacco;~~

273 and]

274 (ii) an electronic cigarette product, as that term is defined in Section [76-10-101](#); or

275 (iii) tobacco paraphernalia, as that term is defined in Section [~~76-10-104.1~~] [76-10-101](#).

276 (2) The regulation of a retail tobacco specialty business is an exercise of the police
277 powers of the state~~[, and through delegation,]~~ by the state or by the delegation of the states's
278 police power to other governmental entities.

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

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

284 (4) (a) Except as provided in Subsection (7), a county may not issue a license for a
285 person to conduct business as a retail tobacco specialty business if the retail tobacco specialty
286 business is located within:

- 287 (i) 1,000 feet of a community location;
- 288 (ii) 600 feet of another retail tobacco specialty business; or
- 289 (iii) 600 feet from property used or zoned for:
 - 290 (A) agriculture use; or
 - 291 (B) residential use.

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

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

- 300 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter
301 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in
302 which the retail tobacco specialty business is located; and
- 303 (ii) a valid license to sell tobacco products from the State Tax Commission.

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

307 (6) (a) Nothing in this section:

308 (i) requires a county to issue a retail tobacco specialty business license; or

309 (ii) prohibits a county from adopting more restrictive requirements on a person seeking
310 a license or renewal of a license to conduct business as a retail tobacco specialty business.

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

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

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

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

321 (iv) under any other provision of state law or local ordinance.

322 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has
323 a business license and is operating in a county in accordance with all applicable laws except for
324 the requirement in Subsection (4), on or before December 31, [~~2015~~] 2018, is exempt from
325 Subsection (4).

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

328 (i) the retail tobacco specialty business license is renewed continuously without lapse
329 or permanent revocation;

330 (ii) the retail tobacco specialty business does not close for business or otherwise
331 suspend the sale of tobacco products for more than 60 consecutive days;

332 (iii) the retail tobacco specialty business does not substantially change the business
333 premises or business operation; and

334 (iv) the retail tobacco specialty business maintains the right to operate under the terms

335 of other applicable laws, including:

- 336 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 337 (B) zoning ordinances;
- 338 (C) building codes; and
- 339 (D) the requirements of a retail tobacco specialty business license issued before
- 340 December 31, ~~[2015]~~ 2018.

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

342 **26-62-102. Definitions.**

343 As used in this chapter:

- 344 (1) "Community location" means the same as that term is defined:
 - 345 (a) as it relates to a municipality, in Section 10-8-41.6; and
 - 346 (b) as it relates to a county, in Section 17-50-333.
- 347 (2) "Employee" means an employee of a tobacco retailer.
- 348 (3) "Enforcing agency" means the state Department of Health, or any local health
- 349 department enforcing the provisions of this chapter.
- 350 (4) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco
- 351 specialty business.
- 352 (5) "Local health department" means the same as that term is defined in Section
- 353 26A-1-102.
- 354 (6) "Owner" means a person holding a 20% ownership interest in the business that is
- 355 required to obtain a permit under this chapter.
- 356 ~~[(6)]~~ (7) "Permit" means a tobacco retail permit issued under this chapter.
- 357 (8) (a) "Proof of age" means:
 - 358 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification
 - 359 Card Act;
 - 360 (ii) a valid identification that:
 - 361 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,
 - 362 Part 8, Identification Card Act;
 - 363 (B) is issued in accordance with the laws of a state other than Utah in which the
 - 364 identification is issued;
 - 365 (C) includes date of birth; and

366 (D) has a picture affixed;
 367 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform
 368 Driver License Act, or in accordance with the laws of the state in which the valid driver license
 369 is issued;

370 (iv) a valid United States military identification card that:

371 (A) includes date of birth; and

372 (B) has a picture affixed; or

373 (v) a valid passport.

374 (b) "Proof of age" does not include a valid driving privilege card issued in accordance
 375 with Section 53-3-207.

376 ~~[(7)]~~ (9) "Retail tobacco specialty business" means the same as that term is defined:

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

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

379 ~~[(8)]~~ (10) "Tax commission license" means a license issued by the State Tax
 380 Commission under:

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

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

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

384 ~~[(9)]~~ (11) "Tobacco product" means:

385 ~~[(a) a cigar, cigarette, or electronic cigarette product as those terms are defined in~~
 386 ~~Section 76-10-101;]~~

387 ~~[(b)]~~ (a) a tobacco product, as that term is defined in Section ~~[59-14-102, including:]~~
 388 76-10-101;

389 ~~[(i) chewing tobacco; or]~~

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

392 (b) an electronic cigarette product, as that term is defined in Section 76-10-102; or

393 (c) tobacco paraphernalia, as that term is defined in Section ~~[76-10-104.1] 76-10-101.~~

394 ~~[(10)]~~ (12) "Tobacco retailer" means a person that is required to obtain a tax
 395 commission license.

396 Section 5. Section 26-62-205 (Effective 07/01/20) is amended to read:

397 **26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty**
398 **business.**

399 A retail tobacco specialty business shall:

400 (1) electronically verify proof of age for any individual that enters the premises of the
401 business in accordance with Part 4, Proof of Age Requirements;

402 ~~[(1)] (2)~~ except as provided in Subsection [76-10-105.1\(4\)](#), prohibit any individual from
403 entering the business if the individual is~~[(a) beginning July 1, 2020, and ending June 30,~~
404 ~~2021, under 20 years old; and (b) beginning July 1, 2021,]~~ under 21 years old; and

405 ~~[(2)] (3)~~ prominently display at the retail tobacco specialty business a sign on the
406 public entrance of the business that communicates:

407 (a) the prohibition on the presence of an individual under 21 years old in a retail
408 tobacco specialty business in Subsection [76-10-105.1\(4\)](#); and

409 (b) the prohibition on the sale of tobacco products to an individual under 21 years old
410 as described in Sections [76-10-104](#), [76-10-104.1](#), [76-10-105.1](#), and [76-10-114](#).

411 Section 6. Section **26-62-304 (Effective 07/01/20)** is amended to read:

412 **26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

413 (1) At a civil hearing conducted under Section [26-62-302](#), evidence of the final
414 criminal conviction of a tobacco retailer or employee for violation of Section ~~[[76-10-104](#)]~~
415 [76-10-114](#) at the same location and within the same time period as the location and time period
416 alleged in the civil hearing for violation of this chapter for sale of tobacco products to an
417 individual under ~~[the following ages]~~ 21 years old is prima facie evidence of a violation of this
418 chapter~~[:]~~.

419 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

420 ~~[(b) beginning July 1, 2021, under 21 years old.]~~

421 (2) If the tobacco retailer is convicted of violating Section ~~[[76-10-104](#)]~~ [76-10-114](#), the
422 enforcing agency:

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

425 (b) may revoke or suspend a permit in accordance with Section [26-62-305](#) or
426 [26-62-402](#).

427 Section 7. Section **26-62-305 (Effective 07/01/20)** is amended to read:

428 **26-62-305 (Effective 07/01/20). Penalties.**

429 (1) (a) ~~If[, following an inspection by an enforcing agency, or an investigation or~~
 430 ~~issuance of a citation or information under Section 77-39-101,]~~ an enforcing agency determines
 431 that a person has violated the terms of a permit issued under this chapter, the enforcing agency
 432 may impose the penalties described in this section.

433 (b) If multiple violations are found in a single inspection by an enforcing agency or
 434 ~~investigation[, only one violation shall count toward the penalties described in this section. (2)~~
 435 ~~(a) The administrative penalty for]~~ by a law enforcement agency under Section 77-39-101, the
 436 enforcing agency shall treat the multiple violations as one single violation under Subsections
 437 (2), (3), and (4).

438 (2) Except as provided in Subsection (3) and Section 26-62-402, if a violation is found
 439 in an inspection by an enforcing agency or an investigation by a law enforcement agency under
 440 Section 77-39-101, the enforcing agency shall:

441 (a) on a first violation at a retail location [is], impose a penalty of [not] no more than
 442 \$500[-];

443 (b) ~~[The administrative penalty for]~~ on a second violation at the same retail location
 444 that occurs within one year of a previous violation [is], impose a penalty of [not] no more than
 445 \$750[-];

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

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

450 (ii) a penalty of ~~[not] no more than \$1,000[-]; and~~

451 ~~[(3) The department or a local health department may:]~~

452 ~~[(a) revoke a permit if a fourth violation occurs within two years of three previous~~
 453 ~~violations;]~~

454 ~~[(b) in addition to a monetary penalty imposed under Subsection (2), suspend the~~
 455 ~~permit if the violation is due to a sale of tobacco products to an individual under:]~~

456 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

457 ~~[(ii) beginning July 1, 2021, 21 years old; and]~~

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

459 ~~business license issued under Section [10-8-41.6](#) or [17-50-333](#) be suspended or revoked.]~~

460 (d) on a fourth or subsequent violation within two years of three previous violations:

461 (i) impose a penalty of no more than \$1,000;

462 (ii) revoke a permit of the retailer; and

463 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty

464 business license issued under Section [10-8-41.6](#) or [17-50-333](#) be suspended or revoked.

465 (3) If a violation is found in an investigation of a general tobacco retailer by a law
466 enforcement agency under Section [77-39-101](#) for the sale of a tobacco product to an individual
467 under 21 years old and the violation is committed by the owner of the general tobacco retailer,
468 the enforcing agency shall:

469 (a) on a first violation, impose a fine of no more than \$2,000 on the general tobacco
470 retailer; and

471 (b) on the second violation for the same general tobacco retailer within one year of the
472 first violation:

473 (i) impose a fine not exceeding \$5,000; and

474 (ii) revoke the permit for the general tobacco retailer.

475 (4) If a violation is found in an investigation of a retail tobacco specialty business by a
476 law enforcement agency under Section [77-39-101](#) for the sale of a tobacco product to an
477 individual under 21 years old, the enforcing agency shall apply the provisions of Section
478 [26-62-402](#).

479 ~~[(4)]~~ (5) (a) Except when a transfer described in Subsection ~~[(5)]~~ (6) occurs, a local
480 health department may not issue a permit to:

481 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2)
482 or (3) or Section [26-62-402](#); or

483 (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner,
484 or other holder of significant interest as another tobacco retailer for whom a permit is
485 suspended or revoked under Subsection (2) or (3) or Section [26-62-402](#).

486 (b) A person whose permit:

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

490 (ii) is revoked under this section or Section 26-62-402 may not apply for a new permit
491 for any tobacco retailer for a period of 24 months after the day on which an enforcing agency
492 revokes the permit.

493 [~~5~~] (6) Violations of this chapter, Section 10-8-41.6, [~~or~~] Section 17-50-333, or
494 Section 26-62-402 that occur at a tobacco retailer location shall stay on the record for that
495 tobacco retailer location unless:

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

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

500 Section 8. Section 26-62-401 is enacted to read:

501 **Part 4. Proof of Age Requirements**

502 **26-62-401. Verification of proof of age.**

503 (1) As used in this section:

504 (a) "Employee" means an employee of a retail tobacco specialty business.

505 (b) "Electronic verification program" means a technology used by a retail tobacco
506 specialty business to confirm proof of age for an individual.

507 (2) A retail tobacco specialty business shall require that an employee verify proof of
508 age as provided in this section.

509 (3) To comply with Subsection (2), an employee shall:

510 (a) request the individual present proof of age; and

511 (b) verify the validity of the proof of age electronically in accordance with Subsection

512 (4).

513 (4) A retail tobacco specialty business shall use an electronic verification program to
514 assist the business in complying with the requirements of this section.

515 (5) (a) A retail tobacco specialty business may not disclose information obtained under
516 this section except as provided under this part.

517 (b) Information obtained under this section:

518 (i) shall be kept for at least 30 days; and

519 (ii) is subject to inspection upon request by a peace officer or the representative of an
520 enforcing agency.

521 (6) (a) If an employee does not verify proof of age under this section, the employee
522 may not permit an individual to:

- 523 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or
- 524 (ii) purchase a tobacco product.

525 (b) In accordance with Subsection [76-10-105.1\(4\)](#), an individual who is under 21 years
526 old may be permitted to enter a retail tobacco specialty business if:

527 (i) the individual is accompanied by a parent or legal guardian who provides proof of
528 age; or

529 (ii) the individual is present at the retail tobacco specialty shop for a bona fide
530 commercial purpose other than to purchase a tobacco product.

531 (7) To determine whether the individual described in Subsection (2) is 21 years old or
532 older, the following may request an individual described in Subsection (2) to present proof of
533 age:

534 (a) an employee;

535 (b) a peace officer; or

536 (c) a representative of an enforcing agency.

537 Section 9. Section **26-62-402** is enacted to read:

538 **26-62-402. Penalties.**

539 (1) Except as provided in Subsection (2), if a violation of this part is found in an
540 investigation of a retail tobacco specialty business by a law enforcement agency under Section
541 [77-39-101](#), the enforcing agency shall:

542 (a) on a first violation, impose a penalty of no more than \$500 on the retail tobacco
543 specialty business;

544 (b) on a second violation for the same retail tobacco specialty business that occurs
545 within one year of a previous violation, impose a penalty of no more than \$750;

546 (c) on a third violation for the same retail tobacco specialty business that occurs within
547 two years of the two previous violations, impose:

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

550 (ii) a penalty of no more than \$1,000; and

551 (d) on a fourth or subsequent violation within two years of the three previous

552 violations:

553 (i) impose a penalty of no more than \$1,000;

554 (ii) revoke the permit of the retail tobacco specialty business; and

555 (iii) recommend to a municipality or county that a retail tobacco specialty business

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

557 (2) If a violation of this part is committed by the owner and is found in an investigation

558 of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101,

559 the enforcing agency shall:

560 (a) on a first violation, impose a fine not exceeding \$2,000; and

561 (b) on a second violation at the same retail tobacco specialty business within one year

562 of the first violation:

563 (i) impose a fine not exceeding \$5,000;

564 (ii) revoke the retail tobacco specialty business's permit; and

565 (iii) recommend to a municipality or county that the retail tobacco specialty license

566 issued under Section 10-8-61.6 or 17-50-333 to the retail tobacco specialty business be

567 suspended or revoked.

568 (3) If multiple violations are found in a single investigation by a law enforcement

569 agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as a

570 single violation.

571 Section 10. Section **51-9-203 (Effective 07/01/20)** is amended to read:

572 **51-9-203 (Effective 07/01/20). Requirements for tobacco and electronic cigarette**
573 **programs.**

574 (1) To be eligible to receive funding under this part for a tobacco prevention, reduction,

575 cessation, or control program, an organization, whether private, governmental, or

576 quasi-governmental, shall:

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

578 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate

579 sound management and periodic evaluation of the campaign's relevance to the intended

580 audience, particularly in campaigns directed toward youth, including audience awareness of the

581 campaign and recollection of the main message;

582 (ii) for school-based education programs to prevent and reduce youth smoking, the

583 request shall describe how the program will be effective in preventing and reducing youth
584 smoking;

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

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

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

589 (C) if directed toward youth:

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

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

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

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

595 (iv) for enforcement, control, and compliance program, the request shall demonstrate
596 that the proposed program can reasonably be expected to reduce the extent to which [~~tobacco~~
597 ~~products~~] tobacco products and electronic cigarette products, as those terms are defined in
598 Section 76-10-101, are available to individuals under [~~the following ages: (A) beginning July~~
599 ~~1, 2020, and ending June 30, 2021, 20 years old; and (B) beginning July 1, 2021,~~] 21 years
600 old;

601 (b) agree, by contract, to file an annual written report with the Department of Health
602 that contains the following:

603 (i) the amount funded;

604 (ii) the amount expended;

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

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

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

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

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

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

- 616 (A) the provisions of the Master Settlement Agreement;
- 617 (B) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 618 (C) Title 26, Chapter 62, Part 3, Enforcement; and
- 619 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and
- 620 (d) agree, by contract, to repay the funds provided under this part if the organization:

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

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

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

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

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

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

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

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

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

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

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

635 (5) The attorney general shall be responsible for recovering funds that are required to
636 be repaid to the state under this section.

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

639 Section 11. Section **53-3-229** is amended to read:

640 **53-3-229. Prohibited uses of license certificate -- Penalty.**

641 (1) It is a class C misdemeanor for ~~[a person]~~ an individual to:

642 (a) lend or knowingly permit the use of a license certificate issued to the ~~[person]~~
643 individual, by ~~[a person]~~ another individual not entitled to ~~[it]~~ the license certificate;

644 (b) display or ~~[to]~~ represent as the ~~[person's]~~ individual's own license certificate a

645 license certificate not issued to the ~~[person]~~ individual;

646 (c) refuse to surrender to the division or a peace officer upon demand any license
647 certificate issued by the division;

648 (d) use a false name or give a false address in any application for a license or any
649 renewal or duplicate of the license certificate, or to knowingly make a false statement, or to
650 knowingly conceal a material fact or otherwise commit a fraud in the application;

651 (e) display a canceled, denied, revoked, suspended, or disqualified driver license
652 certificate as a valid driver license certificate;

653 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
654 driver license certificate issued by a governmental entity if the item is not an authentic driver
655 license certificate issued by that governmental entity; or

656 (g) alter any information on an authentic driver license certificate so that it no longer
657 represents the information originally displayed.

658 (2) The provisions of Subsection (1)(e) do not prohibit the use of ~~[a person's]~~ an
659 individual's driver license certificate as a means of personal identification.

660 (3) It is a class A misdemeanor to knowingly:

661 (a) issue a driver license certificate with false or fraudulent information;

662 (b) issue a driver license certificate to ~~[a person]~~ an individual who is younger than 21
663 years ~~[of age]~~ old if the driver license certificate is not distinguished as required for ~~[a person]~~
664 an individual who is younger than 21 years ~~[of age]~~ old under Section 53-3-207; or

665 (c) acquire, use, display, or transfer a false or altered driver license certificate to
666 procure~~[-]~~ a tobacco product or an electronic cigarette product, as those terms are defined in
667 Section 76-10-101.

668 ~~[(i) a cigarette;]~~

669 ~~[(ii) an electronic cigarette, as defined in Section 76-10-101;]~~

670 ~~[(iii) tobacco; or]~~

671 ~~[(iv) a tobacco product.]~~

672 (4) ~~[A person]~~ An individual may not use, display, or transfer a false or altered driver
673 license certificate to procure alcoholic beverages, gain admittance to a place where alcoholic
674 beverages are sold or consumed, or obtain employment that may not be obtained by a minor in
675 violation of Section 32B-1-403.

676 (5) It is a third degree felony if [~~a person's~~] an individual's acquisition, use, display, or
677 transfer of a false or altered driver license certificate:

678 (a) aids or furthers the [~~person's~~] individual's efforts to fraudulently obtain goods or
679 services; or

680 (b) aids or furthers the [~~person's~~] individual's efforts to commit a violent felony.

681 Section 12. Section **53-3-810** is amended to read:

682 **53-3-810. Prohibited uses of identification card -- Penalties.**

683 (1) It is a class C misdemeanor to:

684 (a) lend or knowingly permit the use of an identification card issued to the [~~person~~]
685 individual, by [~~a person~~] an individual not entitled to [~~it~~] the identification card;

686 (b) display or to represent as the [~~person's~~] individual's own identification card an
687 identification card not issued to the [~~person~~] individual;

688 (c) refuse to surrender to the division or a peace officer upon demand any identification
689 card issued by the division;

690 (d) use a false name or give a false address in any application for an identification card
691 or any renewal or duplicate of the identification card, or to knowingly make a false statement,
692 or to knowingly conceal a material fact in the application;

693 (e) display a revoked identification card as a valid identification card;

694 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
695 identification card issued by a governmental entity if the item is not an authentic identification
696 card issued by that governmental entity; or

697 (g) alter any information contained on an authentic identification card so that it no
698 longer represents the information originally displayed.

699 (2) It is a class A misdemeanor to knowingly:

700 (a) issue an identification card with false or fraudulent information;

701 (b) issue an identification card to [~~any person~~] an individual who is younger than 21
702 years [~~of age~~] old if the identification card is not distinguished as required for [~~a person~~] an
703 individual who is younger than 21 years [~~of age~~] old under Section **53-3-806**; or

704 (c) acquire, use, display, or transfer a false or altered identification card to procure[:] a
705 tobacco product or an electronic cigarette product, as those terms are defined in Section
706 76-10-101.

- 707 [~~(i) a cigarette;~~
- 708 [~~(ii) an electronic cigarette, as defined in Section 76-10-101;~~
- 709 [~~(iii) tobacco; or~~
- 710 [~~(iv) a tobacco product.~~]

711 (3) [~~A person~~] An individual may not knowingly use, display, or transfer a false or
712 altered identification card to procure alcoholic beverages, gain admittance to a place where
713 alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a
714 minor in violation of Section 32B-1-403.

715 (4) It is a third degree felony if [~~a person's~~] an individual's acquisition, use, display, or
716 transfer of a false or altered identification card:

717 (a) aids or furthers the [~~person's~~] individual's efforts to fraudulently obtain goods or
718 services; or

719 (b) aids or furthers the [~~person's~~] individual's efforts to commit a violent felony.
720 Section 13. Section 53G-8-209 is amended to read:

721 **53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of**
722 **violations -- Limitation of liability.**

723 (1) The Legislature recognizes that:

724 (a) participation in student government and extracurricular activities may confer
725 important educational and lifetime benefits upon students, and encourages school districts and
726 charter schools to provide a variety of opportunities for all students to participate in such
727 activities in meaningful ways;

728 (b) there is no constitutional right to participate in these types of activities, and does
729 not through this section or any other provision of law create such a right;

730 (c) students who participate in student government and extracurricular activities,
731 particularly competitive athletics, and the adult coaches, advisors, and assistants who direct
732 those activities, become role models for others in the school and community;

733 (d) these individuals often play major roles in establishing standards of acceptable
734 behavior in the school and community, and establishing and maintaining the reputation of the
735 school and the level of community confidence and support afforded the school; and

736 (e) it is of the utmost importance that those involved in student government, whether as
737 officers or advisors, and those involved in competitive athletics and related activities, whether

738 students or staff, comply with all applicable laws and standards of behavior and conduct
739 themselves at all times in a manner befitting their positions and responsibilities.

740 (2) (a) The state board may, and local school boards and charter school governing
741 boards shall, adopt rules or policies implementing this section that apply to both students and
742 staff.

743 (b) The rules or policies described in Subsection (2)(a) shall include prohibitions
744 against the following types of conduct in accordance with Section 53G-8-211, while in the
745 classroom, on school property, during school sponsored activities, or regardless of the location
746 or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i)
747 through (iv):

748 (i) the use of foul, abusive, or profane language while engaged in school related
749 activities;

750 (ii) (A) the illicit use, possession, or distribution of controlled substances or drug
751 paraphernalia~~[-and]~~;

752 (B) the use, possession, or distribution of ~~[an electronic cigarette as defined in Section~~
753 ~~76-10-101, tobacco, or alcoholic beverages contrary to law]~~ a tobacco product or an electronic
754 ciagrette product, as those terms are defined in Section 76-10-101, or an alcoholic beverage
755 that is contrary to law; and

756 (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including
757 behavior involving physical violence, restraint, improper touching, or inappropriate exposure
758 of body parts not normally exposed in public settings, forced ingestion of any substance, or any
759 act which would constitute a crime against a person or public order under Utah law.

760 (3) (a) School employees who reasonably believe that a violation of this section may
761 have occurred shall immediately report that belief to the school principal, district
762 superintendent, or chief administrative officer of a charter school.

763 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the
764 alleged incident, and actions taken in response, to the district superintendent or the
765 superintendent's designee within 10 working days after receipt of the report.

766 (c) Failure of a person holding a professional certificate to report as required under this
767 Subsection (3) constitutes an unprofessional practice.

768 (4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

769 Section 14. Section 59-14-703 (Effective 07/01/20) is amended to read:

770 **59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine**
771 **operators -- Renewal of certification -- Requirements for certification or renewal of**
772 **certification -- Denial.**

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

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

777 or

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

- 779 (i) the cigarette rolling machine operator; or
- 780 (ii) another person at the location of the cigarette rolling machine operator's cigarette
781 rolling machine.

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

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

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

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

- 791 (i) December 31 of each year; or
- 792 (ii) the day on which there is a change in any of the information the cigarette rolling
793 machine operator provides on the form described in Subsection (3).

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

- 796 (a) identify:
 - 797 (i) the cigarette rolling machine operator's name and address;
 - 798 (ii) the location, make, and brand of the cigarette rolling machine operator's cigarette
799 rolling machine; and

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

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

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

806 (A) brand family listed on the commission's directory listing required by Section
807 [59-14-603](#); and

808 (B) tobacco product manufacturer listed on the commission's directory listing required
809 by Section [59-14-603](#);

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

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

816 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title
817 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection
818 Act;

819 (v) the cigarette rolling machine shall be located in a separate and defined area where
820 the cigarette rolling machine operator ensures that an individual younger than ~~[the age specified~~
821 ~~in Subsection (6)]~~ 21 years old may not be:

822 (A) present at any time; or

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

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

827 ~~[(6) For purposes of Subsection (5), an individual is younger than:]~~

828 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

829 ~~[(b) beginning July 1, 2021, 21 years old.]~~

830 ~~[(7)]~~ (6) If the commission determines that a cigarette rolling machine operator meets

831 the requirements for certification or renewal of certification under this section, the commission
832 shall grant the certification or renewal of certification.

833 ~~[(8)]~~ (7) If the commission determines that a cigarette rolling machine operator does
834 not meet the requirements for certification or renewal of certification under this section, the
835 commission shall:

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

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

839 Section 15. Section **63I-1-210** is amended to read:

840 **63I-1-210. Repeal dates, Title 10.**

841 (1) Subsection 10-8-41.6(7), the language that states "December 31, 2018" is repealed
842 July 1, 2022, and replaced with "December 31, 2015".

843 (2) Section 10-9a-526 is repealed December 31, 2020.

844 Section 16. Section **63I-1-217** is amended to read:

845 **63I-1-217. Repeal dates, Title 17.**

846 (1) Subsection 17-16-21(2)(d) is repealed July 1, 2023.

847 (2) Subsection 17-50-333(7), the language that states "December 31, 2018" is repealed
848 July 1, 2022, and replaced with "December 31, 2015".

849 Section 17. Section **76-8-311.3** is amended to read:

850 **76-8-311.3. Items prohibited in correctional and mental health facilities --**

851 **Penalties.**

852 (1) As used in this section:

853 (a) "Contraband" means any item not specifically prohibited for possession by
854 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

855 (b) "Controlled substance" means any substance defined as a controlled substance
856 under Title 58, Chapter 37, Utah Controlled Substances Act.

857 (c) "Correctional facility" means:

858 (i) any facility operated by or contracting with the Department of Corrections to house
859 offenders in either a secure or nonsecure setting;

860 (ii) any facility operated by a municipality or a county to house or detain criminal
861 offenders;

862 (iii) any juvenile detention facility; and

863 (iv) any building or grounds appurtenant to the facility or lands granted to the state,
864 municipality, or county for use as a correctional facility.

865 (d) "Electronic cigarette~~["is as]~~ product" means the same as that term is defined in
866 Section 76-10-101.

867 (e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b,
868 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,
869 Chapter 37, Utah Controlled Substances Act.

870 (f) "Mental health facility" is as defined in Section 62A-15-602.

871 (g) "Offender" means a person in custody at a correctional facility.

872 (h) "Secure area" is as defined in Section 76-8-311.1.

873 (i) "Tobacco product" means the same as that term is defined in Section 76-10-101.

874 (2) Notwithstanding Section 76-10-500, a correctional or mental health facility may
875 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,
876 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any
877 quantity may be:

878 (a) transported to or upon a correctional or mental health facility;

879 (b) sold or given away at any correctional or mental health facility;

880 (c) given to or used by any offender at a correctional or mental health facility; or

881 (d) knowingly or intentionally possessed at a correctional or mental health facility.

882 (3) It is a defense to any prosecution under this section if the accused in committing the
883 act made criminal by this section with respect to:

884 (a) a correctional facility operated by the Department of Corrections, acted in
885 conformity with departmental rule or policy;

886 (b) a correctional facility operated by a municipality, acted in conformity with the
887 policy of the municipality;

888 (c) a correctional facility operated by a county, acted in conformity with the policy of
889 the county; or

890 (d) a mental health facility, acted in conformity with the policy of the mental health
891 facility.

892 (4) (a) ~~[Any person]~~ An individual who transports to or upon a correctional facility, or

893 into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or
894 implement of escape with intent to provide or sell it to any offender, is guilty of a second
895 degree felony.

896 (b) [~~Any person~~] An individual who provides or sells to any offender at a correctional
897 facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition,
898 dangerous weapon, or implement of escape is guilty of a second degree felony.

899 (c) [~~Any~~] An offender who possesses at a correctional facility, or [~~any~~] detainee who
900 possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous
901 weapon, or implement of escape is guilty of a second degree felony.

902 (d) [~~Any person~~] An individual who, without the permission of the authority operating
903 the correctional facility or the secure area of a mental health facility, knowingly possesses at a
904 correctional facility or a secure area of a mental health facility any firearm, ammunition,
905 dangerous weapon, or implement of escape is guilty of a third degree felony.

906 (e) [~~Any person~~] An individual violates Section 76-10-306 who knowingly or
907 intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or
908 mental health facility.

909 (5) (a) [~~A person~~] An individual is guilty of a third degree felony who, without the
910 permission of the authority operating the correctional facility or secure area of a mental health
911 facility, knowingly transports to or upon a correctional facility or into a secure area of a mental
912 health facility any:

- 913 (i) spirituous or fermented liquor;
- 914 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 915 (iii) poison in any quantity.

916 (b) [~~A person~~] An individual is guilty of a third degree felony who knowingly violates
917 correctional or mental health facility policy or rule by providing or selling to any offender at a
918 correctional facility or detainee within a secure area of a mental health facility any:

- 919 (i) spirituous or fermented liquor;
- 920 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 921 (iii) poison in any quantity.

922 (c) An inmate is guilty of a third degree felony who, in violation of correctional or
923 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a

924 mental health facility any:

925 (i) spirituous or fermented liquor;

926 (ii) medicine, other than medicine provided by the facility's health care providers in
927 compliance with facility policy; or

928 (iii) poison in any quantity.

929 (d) [~~A person~~] An individual is guilty of a class A misdemeanor who, with the intent to
930 directly or indirectly provide or sell any tobacco product or electronic cigarette product to an
931 offender, directly or indirectly:

932 (i) transports, delivers, or distributes any tobacco product or electronic cigarette
933 product to an offender or on the grounds of any correctional facility;

934 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another
935 person to transport any tobacco product or electronic cigarette product to an offender or on any
936 correctional facility, if the person is acting with the mental state required for the commission of
937 an offense; or

938 (iii) facilitates, arranges, or causes the transport of any tobacco product or electronic
939 cigarette product in violation of this section to an offender or on the grounds of any
940 correctional facility.

941 (e) [~~A person~~] An individual is guilty of a class A misdemeanor who, without the
942 permission of the authority operating the correctional or mental health facility, fails to declare
943 or knowingly possesses at a correctional facility or in a secure area of a mental health facility
944 any:

945 (i) spirituous or fermented liquor;

946 (ii) medicine; or

947 (iii) poison in any quantity.

948 (f) [~~A person~~] An individual is guilty of a class B misdemeanor who, without the
949 permission of the authority operating the correctional facility, knowingly engages in any
950 activity that would facilitate the possession of any contraband by an offender in a correctional
951 facility. The provisions of Subsection (5)(d) regarding any tobacco product or electronic
952 cigarette product take precedence over this Subsection (5)(f).

953 (g) Exemptions may be granted for worship for Native American inmates pursuant to
954 Section [64-13-40](#).

955 (6) The possession, distribution, or use of a controlled substance at a correctional
956 facility or in a secure area of a mental health facility shall be prosecuted in accordance with
957 Title 58, Chapter 37, Utah Controlled Substances Act.

958 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative
959 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing
960 any tobacco product or electronic cigarette product to offenders is a class A misdemeanor.

961 Section 18. Section **76-10-101** is amended to read:

962 **76-10-101. Definitions.**

963 As used in this part:

964 (1) "Cigar" means a product that contains nicotine, is intended to be burned under
965 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in
966 any substance containing tobacco, other than any roll of tobacco that is a cigarette as described
967 in Subsection (2).

968 (2) "Cigarette" means a product that contains nicotine, is intended to be burned under
969 ordinary conditions of use, and consists of:

970 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

971 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
972 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to
973 be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

974 ~~[(3) "Electronic cigarette" means an electronic cigarette product, as defined in Section~~
975 ~~59-14-802.]~~

976 (3) (a) "Electronic cigarette" means:

977 (i) any electronic oral device:

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

979 (B) which simulates smoking through the device's use, or through inhalation, of the
980 device;

981 (ii) a component of the device described in Subsection (3)(a)(i); and

982 (iii) an accessory sold in the same package as the device described in Subsection

983 (3)(a)(i).

984 (b) "Electronic cigarette" includes an oral device that is:

985 (i) composed of a heating element, battery, or electronic circuit; and

986 (ii) marketed, manufactured, distributed, or sold as:

987 (A) an e-cigarette;

988 (B) an e-cigar;

989 (C) an e-pipe; or

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

991 definition of Subsection (3)(a).

992 (4) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
993 substance, or a prefilled electronic cigarette.

994 (5) "Electronic cigarette substance" means any substance, including liquid containing
995 nicotine, used or intended for use in an electronic cigarette.

996 ~~[(4)]~~ (6) "Place of business" includes:

997 (a) a shop;

998 (b) a store;

999 (c) a factory;

1000 (d) a public garage;

1001 (e) an office;

1002 (f) a theater;

1003 (g) a recreation hall;

1004 (h) a dance hall;

1005 (i) a poolroom;

1006 (j) a café;

1007 (k) a cafeteria;

1008 (l) a cabaret;

1009 (m) a restaurant;

1010 (n) a hotel;

1011 (o) a lodging house;

1012 (p) a streetcar;

1013 (q) a bus;

1014 (r) an interurban or railway passenger coach;

1015 (s) a waiting room; and

1016 (t) any other place of business.

1017 (7) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled
1018 with an electronic cigarette substance.

1019 (8) "Retail tobacco specialty business" means the same as that term is defined in
1020 Section 26-62-102.

1021 ~~(5)~~ (9) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
1022 lighted smoking equipment.

1023 (10) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind
1024 that is used, intended for use, or designed for use to package, repackage, store, contain,
1025 conceal, ingest, inhale, or otherwise introduce a tobacco product or an electronic cigarette
1026 substance into the human body.

1027 (b) "Tobacco paraphernalia" includes:

1028 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
1029 screens, permanent screens, hashish heads, or punctured metal bowls;

1030 (ii) water pipes;

1031 (iii) carburetion tubes and devices;

1032 (iv) smoking and carburetion masks;

1033 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that
1034 has become too small or too short to be held in the hand;

1035 (vi) chamber pipes;

1036 (vii) carburetor pipes;

1037 (viii) electric pipes;

1038 (ix) air-driven pipes;

1039 (x) chillums;

1040 (xi) bongs; and

1041 (xii) ice pipes or chillers.

1042 (c) "Tobacco paraphernalia" does not include matches or lighters.

1043 (11) "Tobacco product" means:

1044 (a) a cigar;

1045 (b) a cigarette; and

1046 (c) tobacco in any form, including:

1047 (i) chewing tobacco; and

1048 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

1049 (12) "Tobacco retailer" means:

1050 (a) a general tobacco retailer, as that term is defined in Section 26-62-102; and

1051 (b) a retail tobacco specialty business.

1052 Section 19. Section **76-10-103 (Effective 07/01/20)** is amended to read:

1053 **76-10-103 (Effective 07/01/20). Permitting minors to use a tobacco product or an**
1054 **electronic cigarette product in place of business.**

1055 It is a class C misdemeanor for the proprietor of any place of business to knowingly
1056 permit an individual under [~~the following ages~~] 21 years old to frequent a place of business
1057 while the individual is using [~~tobacco~~] a tobacco product or an electronic cigarette product.

1058 [~~(1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

1059 [~~(2) beginning July 1, 2021, under 21 years old.~~]

1060 Section 20. Section **76-10-104 (Effective 07/01/20)** is amended to read:

1061 **76-10-104 (Effective 07/01/20). Providing a cigar, cigarette, electronic cigarette,**
1062 **or tobacco to a minor -- Penalties.**

1063 [~~(1) A person violates this section who knowingly, intentionally, recklessly, or with~~
1064 ~~criminal negligence provides a cigar, cigarette, electronic cigarette, or tobacco in any form, to~~
1065 ~~an individual under the following ages, is guilty of a class C misdemeanor on the first offense,~~
1066 ~~a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent~~
1067 ~~offenses:]~~

1068 [~~(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1069 [~~(b) beginning July 1, 2021, 21 years old.~~]

1070 [~~(2)~~] (1) As used in this section "provides":

1071 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1072 (b) does not include the acts of the United States Postal Service or other common
1073 carrier when engaged in the business of transporting and delivering packages for others or the
1074 acts of a person, whether compensated or not, who transports or delivers a package for another
1075 person without any reason to know of the package's content.

1076 (2) An individual who knowingly, intentionally, recklessly, or with criminal negligence
1077 provides a tobacco product or an electronic cigarette product to an individual who is under 21
1078 years old, is guilty of:

- 1079 (a) a class C misdemeanor on the first offense;
- 1080 (b) a class B misdemeanor on the second offense; and
- 1081 (c) a class A misdemeanor on any subsequent offense.
- 1082 (3) This section does not apply to conduct of an employee of a tobacco retailer that is a
- 1083 violation of Section [76-10-114](#).

Section 21. Section **76-10-104.1 (Effective 07/01/20)** is amended to read:

76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to minors -- Penalties.

(1) ~~[For purposes of this section: (a) "Provides"]~~ As used in this section, "provides":

~~[(i)]~~ (a) includes selling, giving, furnishing, sending, or causing to be sent; and

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

~~[(b) "Tobacco paraphernalia":]~~

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

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

~~[(B) water pipes;]~~

~~[(C) carburetion tubes and devices;]~~

~~[(D) smoking and carburetion masks;]~~

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

~~[(F) chamber pipes;]~~

~~[(G) carburetor pipes;]~~

~~[(H) electric pipes;]~~

~~[(I) air-driven pipes;]~~

~~[(J) chillums;]~~

~~[(K) bongs; and]~~

1110 ~~[(L) ice pipes or chillers; and]~~

1111 ~~[(ii) does not include matches or lighters.]~~

1112 (2) (a) It is unlawful for ~~[a person]~~ an individual to knowingly, intentionally,
1113 recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under[
1114 ~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1,~~
1115 ~~2021,]~~ 21 years old.

1116 (b) ~~[A person]~~ An individual who violates this section is guilty of:

1117 (i) a class C misdemeanor on the first offense; and

1118 (ii) a class B misdemeanor on any subsequent ~~[offenses]~~ offense.

1119 Section 22. Section **76-10-105 (Effective 07/01/20)** is amended to read:

1120 **76-10-105 (Effective 07/01/20). Buying or possessing a tobacco product or an**
1121 **electronic cigarette product by a minor -- Penalty -- Compliance officer authority --**
1122 **Juvenile court jurisdiction.**

1123 (1) ~~[(a)]~~ An individual who is 18 years old or older, but younger than ~~[the age specified~~
1124 ~~in Subsection (1)(b)]~~ 21 years old, and who buys or attempts to buy, accepts, or has in the
1125 individual's possession ~~[any cigar, cigarette, electronic cigarette, or tobacco in any form]~~ a
1126 tobacco product or an electronic cigarette product is:

1127 (a) guilty of an infraction; and

1128 (b) subject to:

1129 (i) a minimum fine or penalty of \$60; and

1130 (ii) participation in a court-approved tobacco education or cessation program, which
1131 may include a participation fee.

1132 ~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

1133 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1134 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1135 (2) (a) An individual who is under ~~[the age of]~~ 18 years old and who buys or attempts
1136 to buy, accepts, or has in the individual's possession ~~[any cigar, cigarette, electronic cigarette,~~
1137 ~~or tobacco in any form]~~ a tobacco product or an electronic cigarette product is subject to the
1138 jurisdiction of the juvenile court and subject to Section **78A-6-602**, unless the violation is
1139 committed on school property.

1140 (b) If a violation under this section is adjudicated under Section **78A-6-117**, the minor

1141 may be subject to the following:

1142 ~~[(a)]~~ (i) a fine or penalty, in accordance with Section 78A-6-117; and

1143 ~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may
1144 include a participation fee.

1145 (3) (a) A compliance officer appointed by a board of education under Section
1146 53G-4-402 may not issue a citation for a violation of this section committed on school
1147 property.

1148 (b) A cited violation committed on school property shall be addressed in accordance
1149 with Section 53G-8-211.

1150 ~~[(4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,
1151 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older
1152 and is:]~~

1153 ~~[(i) on active duty in the United States Armed Forces; or]~~

1154 ~~[(ii) a spouse or dependent of an individual who is on active duty in the United States
1155 Armed Forces.]~~

1156 ~~[(b) A valid, government-issued military identification card is required to verify proof
1157 of age under Subsection (4)(a).]~~

1158 Section 23. Section 76-10-105.1 (Effective 07/01/20) is amended to read:

1159 **76-10-105.1 (Effective 07/01/20). Requirement of direct, face-to-face sale of**
1160 **tobacco products and electronic cigarette products -- Minors not allowed in retail tobacco**
1161 **specialty business -- Penalties.**

1162 (1) As used in this section:

1163 ~~[(a) "Cigarette" means the same as that term is defined in Section 59-14-102.]~~

1164 ~~[(b)]~~ (a) (i) "Face-to-face exchange" means a transaction made in person between an
1165 individual and a retailer or retailer's employee.

1166 (ii) "Face-to-face exchange" does not include a sale through a:

1167 (A) vending machine; or

1168 (B) self-service display.

1169 ~~[(c)]~~ (b) "Retailer" means a person who:

1170 (i) sells a ~~[cigarette, tobacco,]~~ tobacco product or an electronic cigarette product to an
1171 individual for personal consumption; or

1172 (ii) operates a facility with a vending machine that sells a [~~cigarette, tobacco,~~] tobacco
 1173 product or an electronic cigarette product.

1174 [~~(d)~~] (c) "Self-service display" means a display of a [~~cigarette, tobacco,~~] tobacco
 1175 product or an electronic cigarette product to which the public has access without the
 1176 intervention of a retailer or retailer's employee.

1177 [~~(e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.]~~

1178 [~~(f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is~~
 1179 ~~defined:]~~

1180 [~~(i) as it relates to a municipality, in Section [10-8-41.6](#), and]~~

1181 [~~(ii) as it relates to a county, in Section [17-50-333](#).]~~

1182 (2) Except as provided in Subsection (3), a retailer may sell a [~~cigarette, tobacco,~~]
 1183 tobacco product or an electronic cigarette product only in a face-to-face exchange.

1184 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

1185 (a) a mail-order, telephone, or Internet sale made in compliance with Section
 1186 [59-14-509](#);

1187 (b) a sale from a vending machine or self-service display that is located in an area of a
 1188 retailer's facility:

1189 (i) that is distinct and separate from the rest of the facility; and

1190 (ii) where the retailer only allows an individual who complies with Subsection (4) to be
 1191 present; or

1192 (c) a sale at a retail tobacco specialty [shop] business.

1193 (4) [~~(a)~~] An individual who [~~is less than the age specified in Subsection (4)(b)] is under~~
 1194 21 years old may not enter or be present at a [~~tobacco specialty shop~~] retail tobacco specialty
 1195 business unless the individual is:

1196 [~~(i)~~] (a) accompanied by a parent or legal guardian;

1197 [~~(ii)~~] (b) present at the [~~tobacco shop~~] retail tobacco specialty business for a bona fide
 1198 commercial purpose other than to purchase a [~~cigarette, tobacco,~~] tobacco product or an
 1199 electronic cigarette[~~;~~ or] product.

1200 [~~(iii) 18 years old or older and an active duty member of the United States Armed~~
 1201 ~~Forces, as demonstrated by a valid, government-issued military identification card.]~~

1202 [(b) For purposes of Subsection (4)(a), the individual is younger than:]

1203 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~
1204 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1205 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)(i), an
1206 individual into an area described in Subsection (3)(b)[~~;~~] or into a ~~[tobacco specialty shop]~~ retail
1207 tobacco specialty business, may not allow the individual to purchase a ~~[cigarette, tobacco,]~~
1208 tobacco product or an electronic cigarette product.

1209 (6) A violation of Subsection (2) or (4) is a:
1210 (a) class C misdemeanor on the first offense;
1211 (b) class B misdemeanor on the second offense; and
1212 (c) class A misdemeanor on ~~[the third and all]~~ any subsequent offenses.

1213 (7) An individual who violates Subsection (5) is guilty of ~~[providing tobacco to a~~
1214 minor] an offense under Section 76-10-104.

1215 (8) (a) An ordinance, regulation, or rule adopted by the governing body of a political
1216 subdivision of the state or by a state agency that affects the sale, minimum age of sale,
1217 placement, or display of ~~[cigarettes, tobacco,]~~ tobacco products or electronic ~~[cigarettes]~~
1218 cigarette products that is not essentially identical to this section and Section 76-10-102 is
1219 superseded.

1220 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use
1221 ordinance by a municipal or county government.

1222 Section 24. Section 76-10-113 is enacted to read:
1223 **76-10-113. Unlawful transfer or use of proof of age.**

1224 (1) As used in this section:
1225 (a) "Proof of age" means:
1226 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification
1227 Card Act;
1228 (ii) a valid identification that:
1229 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,
1230 Part 8, Identification Card Act;
1231 (B) is issued in accordance with the laws of a state other than Utah in which the
1232 identification is issued;
1233 (C) includes date of birth; and

- 1234 (D) has a picture affixed;
- 1235 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform
- 1236 Driver License Act, or in accordance with the laws of the state in which the valid driver license
- 1237 is issued;
- 1238 (iv) a valid United States military identification card that:
- 1239 (A) includes date of birth; and
- 1240 (B) has a picture affixed; or
- 1241 (v) a valid passport.
- 1242 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 1243 Section [53-3-207](#).
- 1244 (2) An individual who knowingly and intentionally transfers that individual's proof of
- 1245 age to another individual to aid that individual in purchasing a tobacco product or an electronic
- 1246 cigarette product, or in gaining admittance to any part of the premises of a retail tobacco
- 1247 specialty business, is guilty of a class B misdemeanor.
- 1248 (3) An individual who knowingly and intentionally uses proof of age containing false
- 1249 information with the intent to purchase a tobacco product or an electronic cigarette product, or
- 1250 to gain admittance to any part of the premises of a retail tobacco specialty business, is guilty of
- 1251 a class A misdemeanor.
- 1252 Section 25. Section **76-10-114** is enacted to read:
- 1253 **76-10-114. Unlawful sale of a tobacco product or electronic cigarette product.**
- 1254 (1) As used in this section:
- 1255 (a) "Compensatory service" means service or unpaid work performed by an employee,
- 1256 in lieu of the payment of a fine or imprisonment.
- 1257 (b) "Employee" means an employee or an owner of a tobacco retailer.
- 1258 (2) It is unlawful for an employee to knowingly or intentionally sell or give a tobacco
- 1259 product or an electronic cigarette product in the course of business to an individual who is
- 1260 under 21 years old.
- 1261 (3) An employee who violates this section is:
- 1262 (a) on a first violation:
- 1263 (i) guilty of an infraction; and
- 1264 (ii) subject to:

- 1265 (A) a fine not exceeding \$1,000; or
- 1266 (B) compensatory service;
- 1267 (b) on any subsequent violation:
- 1268 (i) guilty of a class C misdemeanor; and
- 1269 (ii) subject to:
- 1270 (A) a fine not exceeding \$2,000; or
- 1271 (B) compensatory service.

1272 Section 26. Section 77-39-101 (Effective 07/01/20) is amended to read:

1273 **77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco, and**
1274 **electronic cigarettes to underage individuals.**

- 1275 (1) As used in this section~~["electronic cigarette" is as]~~:
- 1276 (a) "Electronic cigarette product" means the same as that term is defined in Section
1277 76-10-101.
- 1278 (b) "Tobacco product means the same as that term is defined in Section 76-10-101.

1279 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer
1280 Classifications, may investigate the possible violation of:

- 1281 (i) Section ~~32B-4-403~~ by requesting an individual under 21 years old to enter into and
1282 attempt to purchase or make a purchase of alcohol from a retail establishment; or
- 1283 (ii) Section ~~[76-10-104]~~ 76-10-114 by requesting an individual under ~~[the age specified~~
1284 ~~in Subsection (2)(e)]~~ 21 years old to enter into and attempt to purchase or make a purchase
1285 from a retail establishment of:
- 1286 (A) a ~~[cigar]~~ tobacco product; or
- 1287 ~~[(B) a cigarette;]~~
- 1288 ~~[(C) tobacco in any form; or]~~
- 1289 ~~[(D)]~~ (B) an electronic cigarette product.

1290 (b) A peace officer who is present at the site of a proposed purchase shall direct,
1291 supervise, and monitor the individual requested to make the purchase.

1292 (c) Immediately following a purchase or attempted purchase or as soon as practical the
1293 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
1294 establishment that the attempted purchaser was under the legal age to purchase:

- 1295 (i) alcohol; or

1296 (ii) (A) a [~~cigar~~] tobacco product; or
1297 [~~(B) a cigarette;~~]
1298 [~~(C) tobacco in any form; or~~]
1299 [~~(D)~~] (B) an electronic cigarette product.
1300 (d) If a citation or information is issued, [~~it~~] the citation or information shall be issued
1301 within seven days of the purchase.
1302 [~~(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:~~]
1303 [~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and~~]
1304 [~~(ii) beginning July 1, 2021, 21 years old.~~]
1305 (3) (a) If an individual under [~~the age of~~] 18 years old is requested to attempt a
1306 purchase, a written consent of that individual's parent or guardian shall be obtained prior to that
1307 individual participating in any attempted purchase.
1308 (b) An individual requested by the peace officer to attempt a purchase may:
1309 (i) be a trained volunteer; or
1310 (ii) receive payment, but may not be paid based on the number of successful purchases
1311 of alcohol, tobacco products, or an electronic cigarette products.
1312 (4) The individual requested by the peace officer to attempt a purchase and anyone
1313 accompanying the individual attempting a purchase may not during the attempted purchase
1314 misrepresent the age of the individual by false or misleading identification documentation in
1315 attempting the purchase.
1316 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
1317 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
1318 purchase of, or possession of alcohol, a [~~cigar, a cigarette, tobacco in any form~~] tobacco
1319 product, or an electronic cigarette product if a peace officer directs, supervises, and monitors
1320 the individual.
1321 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
1322 shall be conducted[:] within a 12-month period:
1323 [~~(i) on a random basis; and~~]
1324 [~~(ii) within a 12-month period at any one retail establishment location not more often~~
1325 ~~than:~~]
1326 [~~(A) two times for the attempted purchase of:~~]

1327 ~~[(I) a cigar;]~~
1328 ~~[(II) a cigarette;]~~
1329 ~~[(III) tobacco in any form; or]~~
1330 ~~[(IV) an electronic cigarette; and]~~
1331 ~~[(B) four times for the attempted purchase of alcohol.]~~
1332 (i) on a random basis at any one retail establishment location, not more often than four
1333 times for the attempted purchase of alcohol; and
1334 (ii) a minimum of two times at a retail establishment that sells tobacco products, or
1335 electronic cigarette products, for the attempted purchase of a tobacco product or an electronic
1336 cigarette product.
1337 (b) This section does not prohibit an investigation or an attempt to purchase ~~[tobacco]~~
1338 alcohol, a tobacco product, or an electronic cigarette product under this section if:
1339 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
1340 ~~[cigar, a cigarette, tobacco in any form]~~ tobacco product, or an electronic cigarette product to
1341 an individual under the age established by Section [32B-4-403](#) or ~~[76-10-104]~~ [76-10-114](#); and
1342 (ii) the supervising peace officer makes a written record of the grounds for the
1343 reasonable suspicion.
1344 (7) (a) The peace officer exercising direction, supervision, and monitoring of the
1345 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
1346 was made.
1347 (b) The report required by this Subsection (7) shall include:
1348 (i) the name of the supervising peace officer;
1349 (ii) the name of the individual attempting the purchase;
1350 (iii) a photograph of the individual attempting the purchase showing how that
1351 individual appeared at the time of the attempted purchase;
1352 (iv) the name and description of the cashier or proprietor from whom the individual
1353 attempted the purchase;
1354 (v) the name and address of the retail establishment; and
1355 (vi) the date and time of the attempted purchase.
1356 Section 27. **Effective date.**
1357 This bill takes effect on July 1, 2020.