

Senator Jacob L. Anderegg 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
8	Carl R. Albrecht	Dan N. Johnson	Lawanna Shurtliff
9	Kyle R. Andersen	Marsha Judkins	V. Lowry Snow
10	Patrice M. Arent	Brian S. King	Robert M. Spendlove
11	Brady Brammer	Karen Kwan	Jeffrey D. Stenquist
12	Joel K. Briscoe	Karianne Lisonbee	Andrew Stoddard
13	Walt Brooks	Kelly B. Miles	Keven J. Stratton
14	Scott H. Chew	Carol Spackman Moss	Steve Waldrip
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17	Jennifer Dailey-Provost	Derrin R. Owens	Elizabeth Weight
18	Brad M. Daw	Lee B. Perry	Mark A. Wheatley
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 to include a business
31 that appears to be a retail tobacco specialty business, other than a business that is
32 licensed to sell fuel, or sells a flavored electronic cigarette product;
- 33 ▶ amends permit violations for tobacco retailers;
- 34 ▶ creates requirements regarding verification of age for retail tobacco specialty
35 businesses;
- 36 ▶ authorizes regulation and testing of manufacturer sealed electronic substances;
- 37 ▶ requires a tobacco retailer to maintain certain records;
- 38 ▶ modifies and places sunset provisions on dates from which certain laws are
39 applicable to retail tobacco specialty businesses;
- 40 ▶ creates civil penalties for a retail tobacco specialty business that allows an
41 individual under 21 years old in certain circumstances to gain access to the premises
42 of the business or to purchase a tobacco product or an electronic cigarette product;
- 43 ▶ increases the minimum age for obtaining, possessing, using, providing, or
44 furnishing tobacco products and paraphernalia and electronic cigarette products to
45 21 years old;
- 46 ▶ prohibits a manufacturer, wholesaler, or retailer from providing certain discounts or
47 giveaways for tobacco products and electronic cigarette products;
- 48 ▶ makes it a crime to fraudulently use or transfer proof of age to gain access to a retail
49 tobacco specialty business or to purchase a tobacco product or electronic cigarette
50 product;
- 51 ▶ makes it a crime for an employee of a retail tobacco specialty business to allow an
52 individual under 21 years old to purchase a tobacco product or an electronic
53 cigarette product;
- 54 ▶ amends the number of times that a peace officer must conduct an investigation of a
55 retail shop for underage tobacco sales; and

56 ▶ makes technical and conforming changes.

57 **Money Appropriated in this Bill:**

58 None

59 **Other Special Clauses:**

60 This bill provides a special effective date.

61 **Utah Code Sections Affected:**

62 AMENDS:

63 **10-8-41.6**, as last amended by Laws of Utah 2018, Chapter 231

64 **10-8-47 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

65 **17-50-333**, as last amended by Laws of Utah 2018, Chapter 231

66 **26-57-103**, as enacted by Laws of Utah 2015, Chapter 132

67 **26-62-102**, as renumbered and amended by Laws of Utah 2018, Chapter 231

68 **26-62-205 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

69 **26-62-304 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

70 **26-62-305 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

71 **51-9-203 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapters 136

72 and 232

73 **53-3-229**, as last amended by Laws of Utah 2010, Chapters 114 and 276

74 **53-3-810**, as last amended by Laws of Utah 2010, Chapters 114 and 276

75 **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293

76 **59-14-703 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

77 **63I-1-210**, as last amended by Laws of Utah 2018, Chapter 236

78 **63I-1-217**, as last amended by Laws of Utah 2018, Chapters 236 and 347

79 **76-8-311.3**, as last amended by Laws of Utah 2010, Chapter 114

80 **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended

81 by Coordination Clause, Laws of Utah 2015, Chapter 132

82 **76-10-103 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

83 **76-10-104 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

84 **76-10-104.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

85 **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

86 **76-10-105.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

87 [76-10-112](#), as enacted by Laws of Utah 1989, Chapter 193

88 [77-39-101](#) (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232

89 ENACTS:

90 [26-62-206](#), Utah Code Annotated 1953

91 [26-62-401](#), Utah Code Annotated 1953

92 [26-62-402](#), Utah Code Annotated 1953

93 [76-10-113](#), Utah Code Annotated 1953

94 [76-10-114](#), Utah Code Annotated 1953

95

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

97 Section 1. Section [10-8-41.6](#) is amended to read:

98 **10-8-41.6. Regulation of retail tobacco specialty business.**

99 (1) As used in this section:

100 (a) "Community location" means:

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

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

103 (iii) a trade or technical school;

104 (iv) a church;

105 (v) a public library;

106 (vi) a public playground;

107 (vii) a public park;

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

109 (ix) a public recreational facility;

110 (x) a public arcade; or

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

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

113 (c) "Electronic cigarette product" means the same as that term is defined in Section

114 [76-10-101](#).

115 (d) (i) "Flavored electronic cigarette product" means an electronic cigarette product
116 that has a taste or smell that is distinguishable by an ordinary consumer either before or during
117 use or consumption of the electronic cigarette product.

118 (ii) "Flavored electronic cigarette product" includes an electronic cigarette product that
119 has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic
120 beverage, herb, or spice.

121 (iii) "Flavored electronic cigarette product" does not include an electronic cigarette
122 product that:

123 (A) has a taste or smell of only tobacco, mint, or menthol; or

124 (B) has been approved by an order granting a premarket tobacco product application of
125 the electronic cigarette product by the United States Food and Drug Administration under 21
126 U.S.C. Sec. 387j(c)(1)(A)(i).

127 [~~e~~] (e) "Local health department" means the same as that term is defined in Section
128 [26A-1-102](#).

129 [~~f~~] (f) "Permittee" means a person licensed under this section to conduct business as
130 a retail tobacco specialty business.

131 [~~g~~] (g) "Retail tobacco specialty business" means a commercial establishment in
132 which:

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

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

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

139 (iv) the commercial establishment:

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

141 (B) causes a reasonable person to believe the commercial establishment is a retail
142 tobacco specialty business; and

143 (C) is not a licensee under Section [59-13-203.1](#) or [59-13-302](#);

144 (v) any flavored electronic cigarette product is sold; or

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

146 [~~f~~] (h) "Self-service display" means the same as that term is defined in Section
147 [76-10-105.1](#).

148 [~~g~~] (i) "Tobacco product" means:

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

151 ~~[(ii)]~~ (i) a tobacco product, as that term is defined in Section ~~[59-14-102, including:]~~
152 ~~76-10-101;~~

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

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

156 (ii) an electronic cigarette product; or

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

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

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

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

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

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

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

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

172 (A) agriculture use; or

173 (B) residential use.

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

178 (5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a municipality
179 may not issue or renew a license for a person to conduct business as a retail tobacco specialty

180 business until the person provides the municipality with proof that the retail tobacco specialty
181 business has:

182 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter
183 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in
184 which the retail tobacco specialty business is located; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

220 (B) zoning ordinances;

221 (C) building codes; and

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

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

225 **10-8-47 (Effective 07/01/20). Intoxication -- Fights -- Disorderly conduct --**
226 **Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and**
227 **fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to**
228 **minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or**
229 **drug addicts.**

230 (1) A municipal legislative body may:

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

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

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

238 (d) provide against and prevent the offense of obtaining money or property under false
239 pretenses and the offense of embezzling money or property in the cases when the money or
240 property embezzled or obtained under false pretenses does not exceed in value the sum of
241 \$500;

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

244 (f) prohibit the sale, giving away, or furnishing of [~~tobacco or e-cigarettes~~] a tobacco
 245 product, as that term is defined in Section 10-8-41.6, to an individual younger than~~[(i)~~
 246 ~~beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1,~~
 247 ~~2021,]~~ 21 years old.

248 (2) A city may:

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

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

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

257 **17-50-333. Regulation of retail tobacco specialty business.**

258 (1) As used in this section:

259 (a) "Community location" means:

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

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

262 (iii) a trade or technical school;

263 (iv) a church;

264 (v) a public library;

265 (vi) a public playground;

266 (vii) a public park;

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

268 (ix) a public recreational facility;

269 (x) a public arcade; or

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

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

272 (c) "Electronic cigarette product" means the same as that term is defined in Section

273 [76-10-101.](#)

274 (d) (i) "Flavored electronic cigarette product" means an electronic cigarette product
275 that has a taste or smell that is distinguishable by an ordinary consumer either before or during
276 use or consumption of the electronic cigarette product.

277 (ii) "Flavored electronic cigarette product" includes an electronic cigarette product that
278 has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic
279 beverage, herb, or spice.

280 (iii) "Flavored electronic cigarette product" does not include an electronic cigarette
281 product that:

282 (A) has a taste or smell of only tobacco, mint, or menthol; or

283 (B) has been approved by an order granting a premarket tobacco product application of
284 the electronic cigarette product by the United States Food and Drug Administration under 21
285 U.S.C. Sec. 387j(c)(1)(A)(i).

286 ~~[(c)]~~ (d) "Licensee" means a person licensed under this section to conduct business as a
287 retail tobacco specialty business.

288 ~~[(d)]~~ (e) "Local health department" means the same as that term is defined in Section
289 [26A-1-102.](#)

290 ~~[(e)]~~ (f) "Retail tobacco specialty business" means a commercial establishment in
291 which:

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

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

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

298 (iv) the commercial establishment:

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

300 (B) causes a reasonable person to believe the commercial establishment is a retail
301 tobacco specialty business; and

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

303 (v) any flavored electronic cigarette product is sold; or

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

305 ~~[(f)]~~ (g) "Self-service display" means the same as that term is defined in Section

306 76-10-105.1.

307 ~~[(g)]~~ (h) "Tobacco product" means:

308 ~~[(i) any cigar, cigarette, or electronic cigarette product as those terms are defined in~~

309 ~~Section 76-10-101;]~~

310 ~~[(ii)]~~ (i) a tobacco product, as that term is defined in Section ~~[59-14-102, including:]~~

311 76-10-101;

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

313 ~~[(B) any substitute for a tobacco product, including flavoring or additives to tobacco;~~

314 ~~and]~~

315 (ii) an electronic cigarette product; or

316 (iii) tobacco paraphernalia, as that term is defined in Section [76-10-104.] 76-10-101.

317 (2) The regulation of a retail tobacco specialty business is an exercise of the police

318 powers of the state~~[-and through delegation,]~~ by the state or by the delegation of the state's

319 police power to other governmental entities.

320 (3) (a) A person may not operate a retail tobacco specialty business in a county unless

321 the person obtains a license from the county in which the retail tobacco specialty business is

322 located.

323 (b) A county may only issue a retail tobacco specialty business license to a person if

324 the person complies with the provisions of Subsections (4) and (5).

325 (4) (a) Except as provided in Subsection (7), a county may not issue a license for a

326 person to conduct business as a retail tobacco specialty business if the retail tobacco specialty

327 business is located within:

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

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

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

331 (A) agriculture use; or

332 (B) residential use.

333 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in

334 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest

335 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard
336 to intervening structures or zoning districts.

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

341 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter
342 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in
343 which the retail tobacco specialty business is located; and

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

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

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

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

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

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

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

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

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

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

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

366 Subsection (4).

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

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

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

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

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

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

378 (B) zoning ordinances;

379 (C) building codes; and

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

382 Section 4. Section **26-57-103** is amended to read:

383 **26-57-103. Electronic cigarette products -- Labeling -- Manufacturing and**
384 **quality control standards -- Advertising.**

385 (1) The department shall, in consultation with a local health department, as defined in
386 Section [26A-1-102](#), and with input from members of the public, establish~~[, no later than~~
387 ~~January 1, 2016]~~, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
388 Rulemaking Act, the standards for electronic cigarette substance:

389 (a) labeling;

390 (b) nicotine content;

391 (c) packaging; and

392 (d) product quality.

393 ~~[(2) The standards established by the department under Subsection (1) do not apply to a~~
394 ~~manufacturer sealed electronic cigarette substance.]~~

395 (2) On or before January 1, 2021, the department shall, in consultation with a local
396 health department, as defined in Section [26A-1-102](#), and with input from members of the

397 public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
398 Rulemaking Act, the standards for manufacturer sealed electronic cigarette substance:

399 (a) labeling;

400 (b) nicotine content;

401 (c) packaging; and

402 (d) product quality.

403 (3) ~~(a) [Beginning on July 1, 2016, a]~~ A person may not sell an electronic cigarette
404 substance unless the electronic cigarette substance complies with the standards established by
405 the department under Subsection (1).

406 (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic
407 cigarette substance unless the manufacturer sealed electronic cigarette substance complies with
408 the standards established by the department under Subsection (2).

409 (4) (a) ~~[Beginning on July 1, 2016, a]~~ A local health department may not enact a rule or
410 regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or
411 product quality that is not identical to the standards established by the department under
412 ~~[Subsection (1)]~~ Subsections (1) and (2).

413 (b) Except as provided in Subsection (4)(c), a local health department may enact a rule
414 or regulation regarding electronic cigarette substance manufacturing.

415 (c) A local health department may not enact a rule or regulation regarding a
416 manufacturer sealed electronic cigarette substance.

417 (5) ~~[Beginning on July 1, 2016, a]~~ A person may not advertise an electronic cigarette
418 product:

419 (a) as a tobacco cessation device;

420 (b) if the person is not licensed to sell an electronic cigarette product under Section
421 [59-14-803](#); or

422 (c) during a period of time when the person's license to sell an electronic cigarette
423 product under Section [59-14-803](#) has been suspended or revoked.

424 Section 5. Section **26-62-102** is amended to read:

425 **26-62-102. Definitions.**

426 As used in this chapter:

427 (1) "Community location" means the same as that term is defined:

- 428 (a) as it relates to a municipality, in Section [10-8-41.6](#); and
- 429 (b) as it relates to a county, in Section [17-50-333](#).
- 430 (2) "Employee" means an employee of a tobacco retailer.
- 431 (3) "Enforcing agency" means the state Department of Health, or any local health
- 432 department enforcing the provisions of this chapter.
- 433 (4) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco
- 434 specialty business.
- 435 (5) "Local health department" means the same as that term is defined in Section
- 436 [26A-1-102](#).
- 437 (6) "Owner" means a person holding a 20% ownership interest in the business that is
- 438 required to obtain an permit under this chapter.
- 439 [~~6~~] (7) "Permit" means a tobacco retail permit issued under this chapter.
- 440 (8) (a) "Proof of age" means:
- 441 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification
- 442 Card Act;
- 443 (ii) a valid identification that:
- 444 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,
- 445 Part 8, Identification Card Act;
- 446 (B) is issued in accordance with the laws of a state other than Utah in which the
- 447 identification is issued;
- 448 (C) includes date of birth; and
- 449 (D) has a picture affixed;
- 450 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform
- 451 Driver License Act, or in accordance with the laws of the state in which the valid driver license
- 452 is issued;
- 453 (iv) a valid United States military identification card that:
- 454 (A) includes date of birth; and
- 455 (B) has a picture affixed; or
- 456 (v) a valid passport.
- 457 (b) "Proof of age" does not include a valid driving privilege card issued in accordance
- 458 with Section [53-3-207](#).

459 [(7)] (9) "Retail tobacco specialty business" means the same as that term is defined:

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

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

462 [(8)] (10) "Tax commission license" means a license issued by the State Tax

463 Commission under:

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

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

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

467 [(9)] (11) "Tobacco product" means:

468 [(a) a cigar, cigarette, or electronic cigarette product as those terms are defined in

469 Section 76-10-101;]

470 [(b)] (a) a tobacco product, as that term is defined in Section [59-14-102, including:]

471 76-10-101;

472 [(i) ~~chewing tobacco; or~~

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

474 ~~or~~]

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

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

477 [(10)] (12) "Tobacco retailer" means a person that is required to obtain a tax

478 commission license.

479 Section 6. Section 26-62-205 (Effective 07/01/20) is amended to read:

480 **26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty**

481 **business.**

482 A retail tobacco specialty business shall:

483 (1) electronically verify proof of age for any individual that enters the premises of the

484 business in accordance with Part 4, Proof of Age Requirements;

485 [(1)] (2) except as provided in Subsection 76-10-105.1(4), prohibit any individual from

486 entering the business if the individual is[: (a) ~~beginning July 1, 2020, and ending June 30,~~

487 ~~2021, under 20 years old; and (b) beginning July 1, 2021,] under 21 years old; and~~

488 [(2)] (3) prominently display at the retail tobacco specialty business a sign on the

489 public entrance of the business that communicates;

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

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

494 Section 7. Section **26-62-206** is enacted to read:

495 **26-62-206. Permit requirements for the sale of tobacco products.**

496 (1) A tobacco retailer shall:

497 (a) provide the customer with an itemized receipt for each sale of a tobacco product
498 that separately identifies:

499 (i) the name of the tobacco product;

500 (ii) the amount charged for each tobacco product; and

501 (iii) the time and date of the sale; and

502 (b) maintain an itemized transaction log for each sale of a tobacco product that
503 separately identifies:

504 (i) the name of the tobacco product;

505 (ii) the amount charged for each tobacco product; and

506 (iii) the date and time of the sale.

507 (2) The itemized transaction log described in Subsection (1)(b) shall be:

508 (a) maintained for at least one year after the date of each transaction in the itemized
509 transaction log; and

510 (b) made available to an enforcing agency or a peace officer at the request of the
511 enforcing agency or the peace officer that is no less restrictive than the provisions in this part.

512 Section 8. Section **26-62-304 (Effective 07/01/20)** is amended to read:

513 **26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

514 (1) At a civil hearing conducted under Section [26-62-302](#), evidence of the final
515 criminal conviction of a tobacco retailer or employee for violation of Section [~~[76-10-104](#)~~]
516 [76-10-114](#) at the same location and within the same time period as the location and time period
517 alleged in the civil hearing for violation of this chapter for sale of tobacco products to an
518 individual under [~~the following ages~~] 21 years old is prima facie evidence of a violation of this
519 chapter[?].

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

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

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

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

526 (b) may revoke or suspend a permit in accordance with Section 26-62-305 or
527 26-62-402.

528 Section 9. Section **26-62-305 (Effective 07/01/20)** is amended to read:

529 **26-62-305 (Effective 07/01/20). Penalties.**

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

534 (b) If multiple violations are found in a single inspection by an enforcing agency or
535 investigation~~[, only one violation shall count toward the penalties described in this section. (2)~~
536 ~~(a) The administrative penalty for]~~ by a law enforcement agency under Section 77-39-101, the
537 enforcing agency shall treat the multiple violations as one single violation under Subsections
538 (2), (3), and (4).

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

542 (a) on a first violation at a retail location [is], impose a penalty of [not] no more than
543 \$500[-];

544 (b) ~~[The administrative penalty for]~~ on a second violation at the same retail location
545 that occurs within one year of a previous violation [is], impose a penalty of [not] no more than
546 \$750[-];

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

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

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

552 ~~[(3) The department or a local health department may:]~~
553 ~~[(a) revoke a permit if a fourth violation occurs within two years of three previous~~
554 ~~violations;]~~
555 ~~[(b) in addition to a monetary penalty imposed under Subsection (2), suspend the~~
556 ~~permit if the violation is due to a sale of tobacco products to an individual under:]~~
557 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~
558 ~~[(ii) beginning July 1, 2021, 21 years old; and]~~
559 ~~[(c) if applicable, recommend to a municipality or county that a retail tobacco specialty~~
560 ~~business license issued under Section [10-8-41.6](#) or [17-50-333](#) be suspended or revoked:]~~
561 (d) on a fourth or subsequent violation within two years of three previous violations:
562 (i) impose a penalty of no more than \$1,000;
563 (ii) revoke a permit of the retailer; and
564 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty
565 business license issued under Section [10-8-41.6](#) or [17-50-333](#) be suspended or revoked.
566 (3) If a violation is found in an investigation of a general tobacco retailer by a law
567 enforcement agency under Section [77-39-101](#) for the sale of a tobacco product to an individual
568 under 21 years old and the violation is committed by the owner of the general tobacco retailer,
569 the enforcing agency shall:
570 (a) on a first violation, impose a fine of no more than \$2,000 on the general tobacco
571 retailer; and
572 (b) on the second violation for the same general tobacco retailer within one year of the
573 first violation:
574 (i) impose a fine not exceeding \$5,000; and
575 (ii) revoke the permit for the general tobacco retailer.
576 (4) If a violation is found in an investigation of a retail tobacco specialty business by a
577 law enforcement agency under Section [77-39-101](#) for the sale of a tobacco product to an
578 individual under 21 years old, the enforcing agency shall apply the provisions of Section
579 [26-62-402](#).
580 ~~[(4)] (5) (a) Except when a transfer described in Subsection ~~[(5)]~~ (6) occurs, a local~~
581 ~~health department may not issue a permit to:~~
582 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2)

583 or (3) or Section 26-62-402; or

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

587 (b) A person whose permit:

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

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

594 [~~5~~] (6) Violations of this chapter, Section 10-8-41.6, [~~or~~] Section 17-50-333, or
595 Section 26-62-402 that occur at a tobacco retailer location shall stay on the record for that
596 tobacco retailer location unless:

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

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

601 Section 10. Section **26-62-401** is enacted to read:

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

603 **26-62-401. Verification of proof of age.**

604 (1) As used in this section:

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

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

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

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

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

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

613 (4).

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

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

618 (b) Information obtained under this section:

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

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

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

624 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

625 (ii) purchase a tobacco product.

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

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

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

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

635 (a) an employee;

636 (b) a peace officer; or

637 (c) a representative of an enforcing agency.

638 Section 11. Section **26-62-402** is enacted to read:

639 **26-62-402. Penalties.**

640 (1) Except as provided in Subsection (2), if a violation of this part is found in an
641 investigation of a retail tobacco specialty business by a law enforcement agency under Section
642 77-39-101, the enforcing agency shall:

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

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

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

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

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

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

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

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

656 (iii) recommend to a municipality or county that a retail tobacco specialty business
657 license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

658 (2) If a violation of this part is committed by the owner and is found in an investigation
659 of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101,
660 the enforcing agency shall:

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

662 (b) on a second violation at the same retail tobacco specialty business within one year
663 of the first violation:

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

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

666 (iii) recommend to a municipality or county that the retail tobacco specialty license
667 issued under Section 10-8-61.6 or 17-50-333 to the retail tobacco specialty business be
668 suspended or revoked.

669 (3) If multiple violations are found in a single investigation by a law enforcement
670 agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as a
671 single violation.

672 Section 12. Section 51-9-203 (Effective 07/01/20) is amended to read:

673 **51-9-203 (Effective 07/01/20). Requirements for tobacco and electronic cigarette**
674 **programs.**

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

676 cessation, or control program, an organization, whether private, governmental, or
677 quasi-governmental, shall:

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

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

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

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

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

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

690 (C) if directed toward youth:

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

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

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

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

696 (iv) for enforcement, control, and compliance program, the request shall demonstrate
697 that the proposed program can reasonably be expected to reduce the extent to which [~~tobacco~~
698 ~~products~~] tobacco products and electronic cigarette products, as those terms are defined in
699 Section 76-10-101, are available to individuals under [~~the following ages: (A) beginning July~~
700 ~~1, 2020, and ending June 30, 2021, 20 years old; and (B) beginning July 1, 2021,~~] 21 years
701 old;

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

704 (i) the amount funded;

705 (ii) the amount expended;

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

707 participated;

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

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

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

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

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

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

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

719 (C) Title 26, Chapter 62, Part 3, Enforcement; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

740 Section 13. Section **53-3-229** is amended to read:

741 **53-3-229. Prohibited uses of license certificate -- Penalty.**

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

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

745 (b) display or [~~to~~] represent as the [~~person's~~] individual's own license certificate a
746 license certificate not issued to the [~~person~~] individual;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

782 Section 14. Section 53-3-810 is amended to read:

783 **53-3-810. Prohibited uses of identification card -- Penalties.**

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

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

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

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

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

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

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

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

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

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

802 (b) issue an identification card to ~~[any person]~~ an individual who is younger than 21

803 years ~~[of age]~~ old if the identification card is not distinguished as required for ~~[a person]~~ an

804 individual who is younger than 21 years ~~[of age]~~ old under Section [53-3-806](#); or

805 (c) acquire, use, display, or transfer a false or altered identification card to procure~~[:]~~ a

806 tobacco product or an electronic cigarette product, as those terms are defined in Section

807 [76-10-101](#).

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

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

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

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

812 (3) ~~[A person]~~ An individual may not knowingly use, display, or transfer a false or

813 altered identification card to procure alcoholic beverages, gain admittance to a place where

814 alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a

815 minor in violation of Section [32B-1-403](#).

816 (4) It is a third degree felony if ~~[a person's]~~ an individual's acquisition, use, display, or

817 transfer of a false or altered identification card:

818 (a) aids or furthers the ~~[person's]~~ individual's efforts to fraudulently obtain goods or

819 services; or

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

821 Section 15. Section [53G-8-209](#) is amended to read:

822 **[53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of](#)**

823 **[violations -- Limitation of liability.](#)**

824 (1) The Legislature recognizes that:

825 (a) participation in student government and extracurricular activities may confer

826 important educational and lifetime benefits upon students, and encourages school districts and

827 charter schools to provide a variety of opportunities for all students to participate in such

828 activities in meaningful ways;

829 (b) there is no constitutional right to participate in these types of activities, and does

830 not through this section or any other provision of law create such a right;

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

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

837 (e) it is of the utmost importance that those involved in student government, whether as
838 officers or advisors, and those involved in competitive athletics and related activities, whether
839 students or staff, comply with all applicable laws and standards of behavior and conduct
840 themselves at all times in a manner befitting their positions and responsibilities.

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

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

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

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

853 (B) the use, possession, or distribution of [~~an electronic cigarette as defined in Section~~
854 ~~76-10-101, tobacco, or alcoholic beverages contrary to law]~~ a tobacco product or an electronic
855 ciagrette product, as those terms are defined in Section 76-10-101, or an alcoholic beverage
856 that is contrary to law; and

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

861 (3) (a) School employees who reasonably believe that a violation of this section may

862 have occurred shall immediately report that belief to the school principal, district
863 superintendent, or chief administrative officer of a charter school.

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

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

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

870 Section 16. Section 59-14-703 (Effective 07/01/20) is amended to read:

871 **59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine**
872 **operators -- Renewal of certification -- Requirements for certification or renewal of**
873 **certification -- Denial.**

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

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

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

878 or

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

880 (i) the cigarette rolling machine operator; or

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

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

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

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

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

892 (i) December 31 of each year; or

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

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

897 (a) identify:

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

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

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

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

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

907 (A) brand family listed on the commission's directory listing required by Section
908 [59-14-603](#); and

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

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

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

917 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title
918 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection
919 Act;

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

923 (A) present at any time; or

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

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

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

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

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

931 [(7)] (6) If the commission determines that a cigarette rolling machine operator meets
932 the requirements for certification or renewal of certification under this section, the commission
933 shall grant the certification or renewal of certification.

934 [(8)] (7) If the commission determines that a cigarette rolling machine operator does
935 not meet the requirements for certification or renewal of certification under this section, the
936 commission shall:

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

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

940 Section 17. Section **63I-1-210** is amended to read:

941 **63I-1-210. Repeal dates, Title 10.**

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

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

945 Section 18. Section **63I-1-217** is amended to read:

946 **63I-1-217. Repeal dates, Title 17.**

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

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

950 Section 19. Section **76-8-311.3** is amended to read:

951 **76-8-311.3. Items prohibited in correctional and mental health facilities --**

952 **Penalties.**

953 (1) As used in this section:

954 (a) "Contraband" means any item not specifically prohibited for possession by

955 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

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

958 (c) "Correctional facility" means:

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

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

963 (iii) any juvenile detention facility; and

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

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

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

971 (f) "Mental health facility" is as defined in Section [62A-15-602](#).

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

973 (h) "Secure area" is as defined in Section [76-8-311.1](#).

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

975 (2) Notwithstanding Section [76-10-500](#), a correctional or mental health facility may
976 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,
977 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any
978 quantity may be:

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

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

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

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

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

985 (a) a correctional facility operated by the Department of Corrections, acted in

986 conformity with departmental rule or policy;

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

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

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

993 (4) (a) [~~Any person~~] An individual who transports to or upon a correctional facility, or
994 into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or
995 implement of escape with intent to provide or sell it to any offender, is guilty of a second
996 degree felony.

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

1000 (c) [~~Any~~] An offender who possesses at a correctional facility, or [~~any~~] detainee who
1001 possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous
1002 weapon, or implement of escape is guilty of a second degree felony.

1003 (d) [~~Any person~~] An individual who, without the permission of the authority operating
1004 the correctional facility or the secure area of a mental health facility, knowingly possesses at a
1005 correctional facility or a secure area of a mental health facility any firearm, ammunition,
1006 dangerous weapon, or implement of escape is guilty of a third degree felony.

1007 (e) [~~Any person~~] An individual violates Section 76-10-306 who knowingly or
1008 intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or
1009 mental health facility.

1010 (5) (a) [~~A person~~] An individual is guilty of a third degree felony who, without the
1011 permission of the authority operating the correctional facility or secure area of a mental health
1012 facility, knowingly transports to or upon a correctional facility or into a secure area of a mental
1013 health facility any:

1014 (i) spirituous or fermented liquor;

1015 (ii) medicine, whether or not lawfully prescribed for the offender; or

1016 (iii) poison in any quantity.

1017 (b) [~~A person~~] An individual is guilty of a third degree felony who knowingly violates
1018 correctional or mental health facility policy or rule by providing or selling to any offender at a
1019 correctional facility or detainee within a secure area of a mental health facility any:

1020 (i) spirituous or fermented liquor;

1021 (ii) medicine, whether or not lawfully prescribed for the offender; or

1022 (iii) poison in any quantity.

1023 (c) An inmate is guilty of a third degree felony who, in violation of correctional or
1024 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a
1025 mental health facility any:

1026 (i) spirituous or fermented liquor;

1027 (ii) medicine, other than medicine provided by the facility's health care providers in
1028 compliance with facility policy; or

1029 (iii) poison in any quantity.

1030 (d) [~~A person~~] An individual is guilty of a class A misdemeanor who, with the intent to
1031 directly or indirectly provide or sell any tobacco product or electronic cigarette product to an
1032 offender, directly or indirectly:

1033 (i) transports, delivers, or distributes any tobacco product or electronic cigarette
1034 product to an offender or on the grounds of any correctional facility;

1035 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another
1036 person to transport any tobacco product or electronic cigarette product to an offender or on any
1037 correctional facility, if the person is acting with the mental state required for the commission of
1038 an offense; or

1039 (iii) facilitates, arranges, or causes the transport of any tobacco product or electronic
1040 cigarette product in violation of this section to an offender or on the grounds of any
1041 correctional facility.

1042 (e) [~~A person~~] An individual is guilty of a class A misdemeanor who, without the
1043 permission of the authority operating the correctional or mental health facility, fails to declare
1044 or knowingly possesses at a correctional facility or in a secure area of a mental health facility
1045 any:

1046 (i) spirituous or fermented liquor;

1047 (ii) medicine; or

1048 (iii) poison in any quantity.

1049 (f) ~~[A person]~~ An individual is guilty of a class B misdemeanor who, without the
1050 permission of the authority operating the correctional facility, knowingly engages in any
1051 activity that would facilitate the possession of any contraband by an offender in a correctional
1052 facility. The provisions of Subsection (5)(d) regarding any tobacco product or electronic
1053 cigarette product take precedence over this Subsection (5)(f).

1054 (g) Exemptions may be granted for worship for Native American inmates pursuant to
1055 Section 64-13-40.

1056 (6) The possession, distribution, or use of a controlled substance at a correctional
1057 facility or in a secure area of a mental health facility shall be prosecuted in accordance with
1058 Title 58, Chapter 37, Utah Controlled Substances Act.

1059 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative
1060 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing
1061 any tobacco product or electronic cigarette product to offenders is a class A misdemeanor.

1062 Section 20. Section **76-10-101** is amended to read:

1063 **76-10-101. Definitions.**

1064 As used in this part:

1065 (1) "Cigar" means a product that contains nicotine, is intended to be burned under
1066 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in
1067 any substance containing tobacco, other than any roll of tobacco that is a cigarette as described
1068 in Subsection (2).

1069 (2) "Cigarette" means a product that contains nicotine, is intended to be burned under
1070 ordinary conditions of use, and consists of:

1071 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

1072 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
1073 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to
1074 be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

1075 ~~[(3) "Electronic cigarette" means an electronic cigarette product, as defined in Section~~
1076 59-14-802.]

1077 (3) (a) "Electronic cigarette" means:

1078 (i) any electronic oral device:

- 1079 (A) that provides an aerosol or a vapor of nicotine or other substance; and
1080 (B) which simulates smoking through the device's use, or through inhalation, of the
1081 device;
1082 (ii) a component of the device described in Subsection (3)(a)(i); and
1083 (iii) an accessory sold in the same package as the device described in Subsection
1084 (3)(a)(i).
1085 (b) "Electronic cigarette" includes an oral device that is:
1086 (i) composed of a heating element, battery, or electronic circuit; and
1087 (ii) marketed, manufactured, distributed, or sold as:
1088 (A) an e-cigarette;
1089 (B) an e-cigar;
1090 (C) an e-pipe; or
1091 (D) any other product name or descriptor, if the function of the product meets the
1092 definition of Subsection (3)(a).
1093 (4) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
1094 substance, or a prefilled electronic cigarette.
1095 (5) "Electronic cigarette substance" means any substance, including liquid containing
1096 nicotine, used or intended for use in an electronic cigarette.
1097 [~~4~~] (6) "Place of business" includes:
1098 (a) a shop;
1099 (b) a store;
1100 (c) a factory;
1101 (d) a public garage;
1102 (e) an office;
1103 (f) a theater;
1104 (g) a recreation hall;
1105 (h) a dance hall;
1106 (i) a poolroom;
1107 (j) a café;
1108 (k) a cafeteria;
1109 (l) a cabaret;

- 1110 (m) a restaurant;
- 1111 (n) a hotel;
- 1112 (o) a lodging house;
- 1113 (p) a streetcar;
- 1114 (q) a bus;
- 1115 (r) an interurban or railway passenger coach;
- 1116 (s) a waiting room; and
- 1117 (t) any other place of business.
- 1118 (7) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled
- 1119 with an electronic cigarette substance.
- 1120 (8) "Retail tobacco specialty business" means the same as that term is defined in
- 1121 Section [26-62-102](#).
- 1122 [~~(5)~~] (9) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
- 1123 lighted smoking equipment.
- 1124 (10) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind
- 1125 that is used, intended for use, or designed for use to package, repack, store, contain,
- 1126 conceal, ingest, inhale, or otherwise introduce a tobacco product or an electronic cigarette
- 1127 substance into the human body.
- 1128 (b) "Tobacco paraphernalia" includes:
- 1129 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
- 1130 screens, permanent screens, hashish heads, or punctured metal bowls;
- 1131 (ii) water pipes;
- 1132 (iii) carburetion tubes and devices;
- 1133 (iv) smoking and carburetion masks;
- 1134 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that
- 1135 has become too small or too short to be held in the hand;
- 1136 (vi) chamber pipes;
- 1137 (vii) carburetor pipes;
- 1138 (viii) electric pipes;
- 1139 (ix) air-driven pipes;
- 1140 (x) chillums;

- 1141 (xi) bongs; and
 1142 (xii) ice pipes or chillers.
 1143 (c) "Tobacco paraphernalia" does not include matches or lighters.
 1144 (11) "Tobacco product" means:
 1145 (a) a cigar;
 1146 (b) a cigarette; and
 1147 (c) tobacco in any form, including:
 1148 (i) chewing tobacco; and
 1149 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

1150 (12) "Tobacco retailer" means:

- 1151 (a) a general tobacco retailer, as that term is defined in Section [26-62-102](#); and
 1152 (b) a retail tobacco specialty business.

1153 Section 21. Section **76-10-103 (Effective 07/01/20)** is amended to read:

1154 **76-10-103 (Effective 07/01/20). Permitting minors to use a tobacco product or an**
 1155 **electronic cigarette product in place of business.**

1156 It is a class C misdemeanor for the proprietor of any place of business to knowingly
 1157 permit an individual under [~~the following ages~~] 21 years old to frequent a place of business
 1158 while the individual is using [~~tobacco;~~] a tobacco product or an electronic cigarette product.

1159 [~~(1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~
 1160 [~~(2) beginning July 1, 2021, under 21 years old.~~]

1161 Section 22. Section **76-10-104 (Effective 07/01/20)** is amended to read:

1162 **76-10-104 (Effective 07/01/20). Providing a cigar, cigarette, electronic cigarette,**
 1163 **or tobacco to a minor -- Penalties.**

1164 [~~(1) A person violates this section who knowingly, intentionally, recklessly, or with~~
 1165 ~~criminal negligence provides a cigar, cigarette, electronic cigarette, or tobacco in any form, to~~
 1166 ~~an individual under the following ages, is guilty of a class C misdemeanor on the first offense,~~
 1167 ~~a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent~~
 1168 ~~offenses:]~~

1169 [~~(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1170 [~~(b) beginning July 1, 2021, 21 years old.~~]

1171 [~~(2)~~] (1) As used in this section "provides":

1172 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1173 (b) does not include the acts of the United States Postal Service or other common
1174 carrier when engaged in the business of transporting and delivering packages for others or the
1175 acts of a person, whether compensated or not, who transports or delivers a package for another
1176 person without any reason to know of the package's content.

1177 (2) An individual who knowingly, intentionally, recklessly, or with criminal negligence
1178 provides a tobacco product or an electronic cigarette product to an individual who is under 21
1179 years old, is guilty of:

1180 (a) a class C misdemeanor on the first offense;

1181 (b) a class B misdemeanor on the second offense; and

1182 (c) a class A misdemeanor on any subsequent offense.

1183 (3) This section does not apply to conduct of an employee of a tobacco retailer that is a
1184 violation of Section 76-10-114.

1185 Section 23. Section 76-10-104.1 (Effective 07/01/20) is amended to read:

1186 **76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to minors --**
1187 **Penalties.**

1188 (1) ~~[For purposes of this section: (a) "Provides"]~~ As used in this section, "provides":

1189 ~~[(i)]~~ (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1190 ~~[(ii)]~~ (b) does not include the acts of the United States Postal Service or other common
1191 carrier when engaged in the business of transporting and delivering packages for others or the
1192 acts of a person, whether compensated or not, who transports or delivers a package for another
1193 person without any reason to know of the package's content.

1194 ~~[(b) "Tobacco paraphernalia":]~~

1195 ~~[(i) means equipment, product, or material of any kind that is used, intended for use, or~~
1196 ~~designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise~~
1197 ~~introduce a cigar, cigarette, or tobacco in any form into the human body, including:]~~

1198 ~~[(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without~~
1199 ~~screens, permanent screens, hashish heads, or punctured metal bowls;]~~

1200 ~~[(B) water pipes;]~~

1201 ~~[(C) carburetion tubes and devices;]~~

1202 ~~[(D) smoking and carburetion masks;]~~

1203 ~~[(E) roach clips, meaning objects used to hold burning material, such as a cigarette,~~
1204 ~~that has become too small or too short to be held in the hand;]~~

1205 ~~[(F) chamber pipes;]~~

1206 ~~[(G) carburetor pipes;]~~

1207 ~~[(H) electric pipes;]~~

1208 ~~[(I) air-driven pipes;]~~

1209 ~~[(J) chillums;]~~

1210 ~~[(K) bongs; and]~~

1211 ~~[(L) ice pipes or chillers; and]~~

1212 ~~[(ii) does not include matches or lighters.]~~

1213 (2) (a) It is unlawful for ~~[a person]~~ an individual to knowingly, intentionally,
1214 recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under[:
1215 ~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1,~~
1216 ~~2021,]~~ 21 years old.

1217 (b) ~~[A person]~~ An individual who violates this section is guilty of:

1218 (i) a class C misdemeanor on the first offense; and

1219 (ii) a class B misdemeanor on any subsequent ~~[offenses]~~ offense.

1220 Section 24. Section **76-10-105 (Effective 07/01/20)** is amended to read:

1221 **76-10-105 (Effective 07/01/20). Buying or possessing a tobacco product or an**
1222 **electronic cigarette product by a minor -- Penalty -- Compliance officer authority --**
1223 **Juvenile court jurisdiction.**

1224 (1) ~~[(a)]~~ An individual who is 18 years old or older, but younger than ~~[the age specified~~
1225 ~~in Subsection (1)(b)]~~ 21 years old, and who buys or attempts to buy, accepts, or has in the
1226 individual's possession ~~[any cigar, cigarette, electronic cigarette, or tobacco in any form]~~ a
1227 tobacco product or an electronic cigarette product is:

1228 (a) guilty of an infraction; and

1229 (b) subject to:

1230 (i) a minimum fine or penalty of \$60; and

1231 (ii) participation in a court-approved tobacco education or cessation program, which
1232 may include a participation fee.

1233 ~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

1234 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1235 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1236 (2) (a) An individual who is under ~~[the age of]~~ 18 years old and who buys or attempts
1237 to buy, accepts, or has in the individual's possession ~~[any cigar, cigarette, electronic cigarette,~~
1238 ~~or tobacco in any form]~~ a tobacco product or an electronic cigarette product is subject to the
1239 jurisdiction of the juvenile court and subject to Section [78A-6-602](#), unless the violation is
1240 committed on school property.

1241 (b) If a violation under this section is adjudicated under Section [78A-6-117](#), the minor
1242 may be subject to the following:

1243 ~~[(a)]~~ (i) a fine or penalty, in accordance with Section [78A-6-117](#); and

1244 ~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may
1245 include a participation fee.

1246 (3) (a) A compliance officer appointed by a board of education under Section
1247 [53G-4-402](#) may not issue a citation for a violation of this section committed on school
1248 property.

1249 (b) A cited violation committed on school property shall be addressed in accordance
1250 with Section [53G-8-211](#).

1251 ~~[(4)(a) This section does not apply to the purchase or possession of a cigar, cigarette,~~
1252 ~~electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older~~
1253 ~~and is:]~~

1254 ~~[(i) on active duty in the United States Armed Forces; or]~~

1255 ~~[(ii) a spouse or dependent of an individual who is on active duty in the United States~~
1256 ~~Armed Forces.]~~

1257 ~~[(b) A valid, government-issued military identification card is required to verify proof~~
1258 ~~of age under Subsection (4)(a).]~~

1259 Section 25. Section [76-10-105.1](#) (Effective 07/01/20) is amended to read:

1260 **[76-10-105.1](#) (Effective 07/01/20). Requirement of direct, face-to-face sale of**
1261 **tobacco products and electronic cigarette products -- Minors not allowed in retail tobacco**
1262 **specialty business -- Penalties.**

1263 (1) As used in this section:

1264 ~~[(a) "Cigarette" means the same as that term is defined in Section [59-14-102](#).]~~

1265 ~~[(b)]~~ (a) (i) "Face-to-face exchange" means a transaction made in person between an
1266 individual and a retailer or retailer's employee.

1267 (ii) "Face-to-face exchange" does not include a sale through a:
1268 (A) vending machine; or
1269 (B) self-service display.

1270 ~~[(c)]~~ (b) "Retailer" means a person who:
1271 (i) sells a ~~[cigarette, tobacco,]~~ tobacco product or an electronic cigarette product to an
1272 individual for personal consumption; or
1273 (ii) operates a facility with a vending machine that sells a ~~[cigarette, tobacco,]~~ tobacco
1274 product or an electronic cigarette product.

1275 ~~[(d)]~~ (c) "Self-service display" means a display of a ~~[cigarette, tobacco,]~~ tobacco
1276 product or an electronic cigarette product to which the public has access without the
1277 intervention of a retailer or retailer's employee.

1278 ~~[(e)] "Tobacco" means any product, except a cigarette, made of or containing tobacco.]~~

1279 ~~[(f)] "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is~~
1280 ~~defined:]~~

1281 ~~[(i) as it relates to a municipality, in Section 10-8-41.6; and]~~
1282 ~~[(ii) as it relates to a county, in Section 17-50-333:]~~

1283 (2) Except as provided in Subsection (3), a retailer may sell a ~~[cigarette, tobacco,]~~
1284 tobacco product or an electronic cigarette product only in a face-to-face exchange.

1285 (3) The face-to-face sale requirement in Subsection (2) does not apply to:
1286 (a) a mail-order, telephone, or Internet sale made in compliance with Section
1287 [59-14-509](#);

1288 (b) a sale from a vending machine or self-service display that is located in an area of a
1289 retailer's facility:

1290 (i) that is distinct and separate from the rest of the facility; and
1291 (ii) where the retailer only allows an individual who complies with Subsection (4) to be
1292 present; or

1293 (c) a sale at a retail tobacco specialty [shop] business.

1294 (4) ~~[(a)]~~ An individual who ~~[is less than the age specified in Subsection (4)(b)]~~ is under
1295 21 years old may not enter or be present at a ~~[tobacco specialty shop]~~ retail tobacco specialty

1296 business unless the individual is:

1297 [(†)] (a) accompanied by a parent or legal guardian;

1298 [(†)] (b) present at the [~~tobacco shop~~] retail tobacco specialty business for a bona fide

1299 commercial purpose other than to purchase a [~~cigarette, tobacco,~~] tobacco product or an

1300 electronic cigarette[~~;~~ or] product.

1301 [(iii)] ~~18 years old or older and an active duty member of the United States Armed~~

1302 ~~Forces, as demonstrated by a valid, government-issued military identification card.]~~

1303 [(b)] ~~For purposes of Subsection (4)(a), the individual is younger than:]~~

1304 [(i)] ~~beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1305 [(ii)] ~~beginning July 1, 2021, 21 years old.]~~

1306 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)(i), an

1307 individual into an area described in Subsection (3)(b)[~~;~~] or into a [~~tobacco specialty shop~~] retail

1308 tobacco specialty business, may not allow the individual to purchase a [~~cigarette, tobacco,~~]

1309 tobacco product or an electronic cigarette product.

1310 (6) A violation of Subsection (2) or (4) is a:

1311 (a) class C misdemeanor on the first offense;

1312 (b) class B misdemeanor on the second offense; and

1313 (c) class A misdemeanor on [~~the third and all~~] any subsequent offenses.

1314 (7) An individual who violates Subsection (5) is guilty of [~~providing tobacco to a~~

1315 ~~minor~~] an offense under Section 76-10-104.

1316 (8) (a) An ordinance, regulation, or rule adopted by the governing body of a political

1317 subdivision of the state or by a state agency that affects the sale, minimum age of sale,

1318 placement, or display of [~~cigarettes, tobacco,~~] tobacco products or electronic [~~cigarettes~~]

1319 cigarette products that is not essentially identical to this section and Section 76-10-102 is

1320 superseded.

1321 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use

1322 ordinance by a municipal or county government.

1323 Section 26. Section 76-10-112 is amended to read:

1324 **76-10-112. Prohibition of distribution of cigarettes or other tobacco products --**

1325 **Exceptions.**

1326 (1) (a) Except as provided in Subsection [(2)] (3), it is unlawful for a manufacturer,

1327 wholesaler, or retailer to:

1328 (i) give or distribute [~~cigarettes or other tobacco products~~] a tobacco product or
 1329 electronic cigarette product in this state without charge[-];

1330 (ii) except as provided in Subsection (1)(b), sell, offer for sale, or furnish a tobacco
 1331 product or an electronic cigarette product at less than the cost of the product to the
 1332 manufacturer, wholesaler, or retailer; or

1333 (iii) give, distribute, sell, offer to sale, or furnish a tobacco product or an electronic
 1334 cigarette product for free or at a lower price because the purchaser makes another purchase.

1335 (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection
 1336 (1)(a)(ii) does not include a discount for:

1337 (i) a manufacturer coupon:

1338 (A) that is surrendered to the tobacco retailer at the time of sale; and

1339 (B) for which the manufacturer will reimburse the wholesaler or retailer for the full
 1340 amount of the discount described in the manufacturer coupon and provided to the purchaser;

1341 (ii) a rebate that will be paid to the manufacturer, wholesaler, or retailer for the full
 1342 amount of the rebate provided to the purchaser; or

1343 (iii) a promotional fund that will be paid to the manufacturer, wholesaler, or retailer for
 1344 the full amount of the promotional fund provided to the purchaser.

1345 (2) [~~Any person~~] An individual who violates this subsection is guilty of:

1346 (a) a class C misdemeanor for the first offense; and

1347 (b) a class B misdemeanor for any subsequent offense.

1348 [(2)] (3) [~~Cigarettes and other tobacco products~~] A tobacco product or an electronic
 1349 cigarette product may be distributed to [~~adults~~] an adult without charge at a professional
 1350 [~~conventions~~] convention where the general public is excluded.

1351 [(3) The prohibition described in Subsection (1) does not apply to retailers,
 1352 manufacturers, or distributors who give cigarettes or other tobacco products to persons of legal
 1353 age upon their purchase of cigarettes or other tobacco products.]

1354 Section 27. Section **76-10-113** is enacted to read:

1355 **76-10-113. Unlawful transfer or use of proof of age.**

1356 (1) As used in this section:

1357 (a) "Proof of age" means:

1358 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification
1359 Card Act;

1360 (ii) a valid identification that:

1361 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,
1362 Part 8, Identification Card Act;

1363 (B) is issued in accordance with the laws of a state other than Utah in which the
1364 identification is issued;

1365 (C) includes date of birth; and

1366 (D) has a picture affixed;

1367 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform
1368 Driver License Act, or in accordance with the laws of the state in which the valid driver license
1369 is issued;

1370 (iv) a valid United States military identification card that:

1371 (A) includes date of birth; and

1372 (B) has a picture affixed; or

1373 (v) a valid passport.

1374 (b) "Proof of age" does not include a driving privilege card issued in accordance with
1375 Section [53-3-207](#).

1376 (2) An individual who knowingly and intentionally transfers that individual's proof of
1377 age to another individual to aid that individual in purchasing a tobacco product or an electronic
1378 cigarette product, or in gaining admittance to any part of the premises of a retail tobacco
1379 specialty business, is guilty of a class B misdemeanor.

1380 (3) An individual who knowingly and intentionally uses proof of age containing false
1381 information with the intent to purchase a tobacco product or an electronic cigarette product, or
1382 to gain admittance to any part of the premises of a retail tobacco specialty business, is guilty of
1383 a class A misdemeanor.

1384 Section 28. Section **76-10-114** is enacted to read:

1385 **76-10-114. Unlawful sale of a tobacco product or electronic cigarette product.**

1386 (1) As used in this section:

1387 (a) "Compensatory service" means service or unpaid work performed by an employee,
1388 in lieu of the payment of a fine or imprisonment.

1389 (b) "Employee" means an employee or an owner of a tobacco retailer.
 1390 (2) It is unlawful for an employee to knowingly or intentionally sell or give a tobacco
 1391 product or an electronic cigarette product in the course of business to an individual who is
 1392 under 21 years old.

1393 (3) An employee who violates this section is:

1394 (a) on a first violation:

1395 (i) guilty of an infraction; and

1396 (ii) subject to:

1397 (A) a fine not exceeding \$1,000; or

1398 (B) compensatory service;

1399 (b) on any subsequent violation:

1400 (i) guilty of a class C misdemeanor; and

1401 (ii) subject to:

1402 (A) a fine not exceeding \$2,000; or

1403 (B) compensatory service.

1404 Section 29. Section **77-39-101 (Effective 07/01/20)** is amended to read:

1405 **77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco, and**
 1406 **electronic cigarettes to underage individuals.**

1407 (1) As used in this section~~["electronic cigarette" is as]~~:

1408 (a) "Electronic cigarette product" means the same as that term is defined in Section
 1409 76-10-101.

1410 (b) "Tobacco product means the same as that term is defined in Section 76-10-101.

1411 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer

1412 Classifications, may investigate the possible violation of:

1413 (i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and
 1414 attempt to purchase or make a purchase of alcohol from a retail establishment; or

1415 (ii) Section [~~76-10-104~~] 76-10-114 by requesting an individual under [~~the age specified~~
 1416 ~~in Subsection (2)(e)] 21 years old to enter into and attempt to purchase or make a purchase
 1417 from a retail establishment of:~~

1418 (A) a [~~cigar~~] tobacco product; or

1419 [~~(B) a cigarette;~~]

- 1420 [~~(C)~~ tobacco in any form; or]
1421 [~~(D)~~] (B) an electronic cigarette product.
- 1422 (b) A peace officer who is present at the site of a proposed purchase shall direct,
1423 supervise, and monitor the individual requested to make the purchase.
- 1424 (c) Immediately following a purchase or attempted purchase or as soon as practical the
1425 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
1426 establishment that the attempted purchaser was under the legal age to purchase:
- 1427 (i) alcohol; or
1428 (ii) (A) a [~~cigar~~] tobacco product; or
1429 [~~(B) a cigarette;~~]
1430 [~~(C) tobacco in any form; or~~]
1431 [~~(D)~~] (B) an electronic cigarette product.
- 1432 (d) If a citation or information is issued, [~~it~~] the citation or information shall be issued
1433 within seven days of the purchase.
- 1434 [~~(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:~~]
1435 [~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and~~]
1436 [~~(ii) beginning July 1, 2021, 21 years old.~~]
- 1437 (3) (a) If an individual under [~~the age of~~] 18 years old is requested to attempt a
1438 purchase, a written consent of that individual's parent or guardian shall be obtained prior to that
1439 individual participating in any attempted purchase.
- 1440 (b) An individual requested by the peace officer to attempt a purchase may:
1441 (i) be a trained volunteer; or
1442 (ii) receive payment, but may not be paid based on the number of successful purchases
1443 of alcohol, tobacco products, or an electronic cigarette products.
- 1444 (4) The individual requested by the peace officer to attempt a purchase and anyone
1445 accompanying the individual attempting a purchase may not during the attempted purchase
1446 misrepresent the age of the individual by false or misleading identification documentation in
1447 attempting the purchase.
- 1448 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
1449 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
1450 purchase of, or possession of alcohol, a [~~cigar, a cigarette, tobacco in any form~~] tobacco

1451 product, or an electronic cigarette product if a peace officer directs, supervises, and monitors
1452 the individual.

1453 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
1454 shall be conducted[?] within a 12-month period:

1455 [~~(i) on a random basis; and~~]

1456 [~~(ii) within a 12-month period at any one retail establishment location not more often
1457 than:]~~

1458 [~~(A) two times for the attempted purchase of:]~~

1459 [~~(F) a cigar;]~~

1460 [~~(H) a cigarette;]~~

1461 [~~(HH) tobacco in any form; or]~~

1462 [~~(IV) an electronic cigarette; and]~~

1463 [~~(B) four times for the attempted purchase of alcohol.]~~

1464 (i) on a random basis at any one retail establishment location, not more often than four
1465 times for the attempted purchase of alcohol; and

1466 (ii) a minimum of two times at a retail establishment that sells tobacco products, or
1467 electronic cigarette products, for the attempted purchase of a tobacco product or an electronic
1468 cigarette product.

1469 (b) This section does not prohibit an investigation or an attempt to purchase [~~tobacco~~]
1470 alcohol, a tobacco product, or an electronic cigarette product under this section if:

1471 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
1472 [~~cigar, a cigarette, tobacco in any form~~] tobacco product, or an electronic cigarette product to
1473 an individual under the age established by Section [32B-4-403](#) or [~~76-10-104~~] [76-10-114](#); and

1474 (ii) the supervising peace officer makes a written record of the grounds for the
1475 reasonable suspicion.

1476 (7) (a) The peace officer exercising direction, supervision, and monitoring of the
1477 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
1478 was made.

1479 (b) The report required by this Subsection (7) shall include:

1480 (i) the name of the supervising peace officer;

1481 (ii) the name of the individual attempting the purchase;

1482 (iii) a photograph of the individual attempting the purchase showing how that
1483 individual appeared at the time of the attempted purchase;

1484 (iv) the name and description of the cashier or proprietor from whom the individual
1485 attempted the purchase;

1486 (v) the name and address of the retail establishment; and

1487 (vi) the date and time of the attempted purchase.

1488 Section 30. **Effective date.**

1489 This bill takes effect on July 1, 2020.