

Representative Jon Hawkins proposes the following substitute bill:

TOBACCO AND ELECTRONIC CIGARETTE AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon Hawkins

Senate Sponsor: Kirk A. Cullimore

6	Cosponsors:	Suzanne Harrison	Angela Romero
7	Cheryl K. Acton	Sandra Hollins	Rex P. Shipp
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
15	Steve R. Christiansen	Calvin R. Musselman	Raymond P. Ward
16	Kay J. Christofferson	Merrill F. Nelson	Christine F. Watkins
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 or sells a flavored electronic
32 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 ▶ provides that a retail tobacco specialty shop may not be located within 1,000 feet of
39 a school or community college;
- 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 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;

- 56 ▶ preempts certain ordinances, rules, and regulations on tobacco products, electronic
- 57 cigarette products, and tobacco paraphernalia; and
- 58 ▶ makes technical and conforming changes.

59 **Money Appropriated in this Bill:**

60 None

61 **Other Special Clauses:**

62 This bill provides a special effective date.

63 **Utah Code Sections Affected:**

64 AMENDS:

- 65 **10-8-41.6**, as last amended by Laws of Utah 2018, Chapter 231
- 66 **10-8-47 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 67 **17-50-333**, as last amended by Laws of Utah 2018, Chapter 231
- 68 **26-57-103**, as enacted by Laws of Utah 2015, Chapter 132
- 69 **26-62-102**, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 70 **26-62-205 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 71 **26-62-304 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 72 **26-62-305 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 73 **51-9-203 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapters 136
- 74 and 232
- 75 **53-3-229**, as last amended by Laws of Utah 2010, Chapters 114 and 276
- 76 **53-3-810**, as last amended by Laws of Utah 2010, Chapters 114 and 276
- 77 **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293
- 78 **59-14-703 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 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 [76-10-115](#), Utah Code Annotated 1953

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

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

99 **[10-8-41.6. Regulation of retail tobacco specialty business.](#)**

100 (1) As used in this section:

101 (a) "Community location" means:

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

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

104 (iii) a trade or technical school;

105 (iv) a church;

106 (v) a public library;

107 (vi) a public playground;

108 (vii) a public park;

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

110 (ix) a public recreational facility;

111 (x) a public arcade; or

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

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

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

115 [76-10-101](#).

116 (d) (i) "Flavored electronic cigarette product" means an electronic cigarette product

117 that has a taste or smell that is distinguishable by an ordinary consumer either before or during

118 use or consumption of the electronic cigarette product.

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

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

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

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

128 ~~[(e)]~~ (e) "Local health department" means the same as that term is defined in Section
129 26A-1-102.

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

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

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

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

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

140 (iv) the commercial establishment:

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

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

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

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

146 ~~[(h)]~~ (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, as those terms are defined in Section~~
150 ~~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)]~~ Except as provided in Subsection (8), a
206 retail tobacco specialty business that has a business license and is operating in a municipality in
207 accordance with all applicable laws except for the requirement in Subsection (4), on or before
208 December 31, 2015, is 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.

224 (8) Beginning August 15, 2020, a retail tobacco specialty business that has a business
225 license and is operating in a municipality may not be located within 1,000 feet of any school or
226 a community college described in Subsection 53B-16-101(1)(b)(iii).

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

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

233 (1) A municipal legislative body may:

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

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

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

241 (d) provide against and prevent the offense of obtaining money or property under false

242 pretenses and the offense of embezzling money or property in the cases when the money or
243 property embezzled or obtained under false pretenses does not exceed in value the sum of
244 \$500;

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

247 (f) prohibit the sale, giving away, or furnishing of [~~tobacco or e-cigarettes~~] a tobacco
248 product or an electronic cigarette product, as those terms are defined in Section 10-8-41.6, to
249 an individual younger than [~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years~~
250 ~~old, and (ii) beginning July 1, 2021,~~] 21 years old.

251 (2) A city may:

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

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

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

260 **17-50-333. Regulation of retail tobacco specialty business.**

261 (1) As used in this section:

262 (a) "Community location" means:

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

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

265 (iii) a trade or technical school;

266 (iv) a church;

267 (v) a public library;

268 (vi) a public playground;

269 (vii) a public park;

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

271 (ix) a public recreational facility;

272 (x) a public arcade; or

- 273 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 274 (b) "Department" means the Department of Health, created in Section [26-1-4](#).
- 275 (c) "Electronic cigarette product" means the same as that term is defined in Section
- 276 [76-10-101](#).
- 277 (d) (i) "Flavored electronic cigarette product" means an electronic cigarette product
- 278 that has a taste or smell that is distinguishable by an ordinary consumer either before or during
- 279 use or consumption of the electronic cigarette product.
- 280 (ii) "Flavored electronic cigarette product" includes an electronic cigarette product that
- 281 has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic
- 282 beverage, herb, or spice.
- 283 (iii) "Flavored electronic cigarette product" does not include an electronic cigarette
- 284 product that:
- 285 (A) has a taste or smell of only tobacco, mint, or menthol; or
- 286 (B) has been approved by an order granting a premarket tobacco product application of
- 287 the electronic cigarette product by the United States Food and Drug Administration under 21
- 288 U.S.C. Sec. 387j(c)(1)(A)(i).
- 289 ~~(d)~~ (d) "Licensee" means a person licensed under this section to conduct business as a
- 290 retail tobacco specialty business.
- 291 ~~(e)~~ (e) "Local health department" means the same as that term is defined in Section
- 292 [26A-1-102](#).
- 293 ~~(f)~~ (f) "Retail tobacco specialty business" means a commercial establishment in
- 294 which:
- 295 (i) the sale of tobacco products accounts for more than 35% of the total quarterly gross
- 296 receipts for the establishment;
- 297 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 298 storage of tobacco products;
- 299 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
- 300 tobacco products; ~~or~~
- 301 (iv) the commercial establishment:
- 302 (A) holds itself out as a retail tobacco specialty business; and
- 303 (B) causes a reasonable person to believe the commercial establishment is a retail

304 tobacco specialty business;

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

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

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

308 ~~76-10-105.1.~~

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

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

311 ~~76-10-101;]~~

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

313 ~~76-10-101;~~

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

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

316 ~~and]~~

317 (ii) an electronic cigarette product; or

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

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

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

321 police power to other governmental entities.

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

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

324 located.

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

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

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

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

329 business is located within:

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

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

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

333 (A) agriculture use; or

334 (B) residential use.

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

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

343 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter
344 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in
345 which the retail tobacco specialty business is located; and

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

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

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

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

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

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

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

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

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

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

365 (7) (a) ~~[In accordance with Subsection (7)(b)]~~ Except as provided in Subsection (8), a

366 retail tobacco specialty business that has a business license and is operating in a county in
367 accordance with all applicable laws except for the requirement in Subsection (4), on or before
368 December 31, 2015, is exempt from Subsection (4).

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

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

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

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

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

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

380 (B) zoning ordinances;

381 (C) building codes; and

382 (D) the requirements of a retail tobacco specialty business license issued before
383 December 31, 2015.

384 (8) Beginning August 15, 2020, a retail tobacco specialty business that has a business
385 license and is operating in a county may not be located within 1,000 feet of any school or a
386 community college described in Subsection [53B-16-101\(1\)\(b\)\(iii\)](#).

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

388 **26-57-103. Electronic cigarette products -- Labeling -- Manufacturing and**
389 **quality control standards -- Advertising.**

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

394 (a) labeling;

395 (b) nicotine content;

396 (c) packaging; and

397 (d) product quality.

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

400 (2) On or before January 1, 2021, the department shall, in consultation with a local
401 health department, as defined in Section [26A-1-102](#), and with input from members of the
402 public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
403 Rulemaking Act, the standards for manufacturer sealed electronic cigarette substance:

404 (a) labeling;

405 (b) nicotine content;

406 (c) packaging; and

407 (d) product quality.

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

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

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

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

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

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

424 (a) as a tobacco cessation device;

425 (b) if the person is not licensed to sell an electronic cigarette product under Section
426 [59-14-803](#); or

427 (c) during a period of time when the person's license to sell an electronic cigarette

428 product under Section 59-14-803 has been suspended or revoked.

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

430 **26-62-102. Definitions.**

431 As used in this chapter:

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

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

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

435 (2) "Employee" means an employee of a tobacco retailer.

436 (3) "Enforcing agency" means the state Department of Health, or any local health
437 department enforcing the provisions of this chapter.

438 (4) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco
439 specialty business.

440 (5) "Local health department" means the same as that term is defined in Section
441 26A-1-102.

442 (6) "Owner" means a person holding a 20% ownership interest in the business that is
443 required to obtain an permit under this chapter.

444 [~~6~~] (7) "Permit" means a tobacco retail permit issued under this chapter.

445 (8) (a) "Proof of age" means:

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

448 (ii) a valid identification that:

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

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

453 (C) includes date of birth; and

454 (D) has a picture affixed;

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

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

459 (A) includes date of birth; and

460 (B) has a picture affixed; or

461 (v) a valid passport.

462 (b) "Proof of age" does not include a valid driving privilege card issued in accordance

463 with Section 53-3-207.

464 [(7)] (9) "Retail tobacco specialty business" means the same as that term is defined:

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

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

467 [(8)] (10) "Tax commission license" means a license issued by the State Tax

468 Commission under:

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

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

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

472 [(9)] (11) "Tobacco product" means:

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

474 Section 76-10-101;]

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

476 76-10-101;

477 [(i) chewing tobacco; or]

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

479 or]

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

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

482 [(10)] (12) "Tobacco retailer" means a person that is required to obtain a tax

483 commission license.

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

485 **26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty**
486 **business.**

487 A retail tobacco specialty business shall:

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

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

490 ~~[(1)]~~ (2) except as provided in Subsection [76-10-105.1\(4\)](#), prohibit any individual from
491 entering the business if the individual is ~~[(a) beginning July 1, 2020, and ending June 30,~~
492 ~~2021, under 20 years old; and (b) beginning July 1, 2021,]~~ under 21 years old; and

493 ~~[(2)]~~ (3) prominently display at the retail tobacco specialty business a sign on the
494 public entrance of the business that communicates:

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

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

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

500 **26-62-206. Permit requirements for the sale of tobacco products.**

501 (1) A tobacco retailer shall:

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

504 (i) the name of the tobacco product;

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

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

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

509 (i) the name of the tobacco product;

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

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

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

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

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

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

518 **26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

519 (1) At a civil hearing conducted under Section [26-62-302](#), evidence of the final
520 criminal conviction of a tobacco retailer or employee for violation of Section ~~[76-10-104](#)~~

521 [76-10-114](#) at the same location and within the same time period as the location and time period
522 alleged in the civil hearing for violation of this chapter for sale of tobacco products to an
523 individual under ~~[the following ages]~~ 21 years old is prima facie evidence of a violation of this
524 chapter[-].

525 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~
526 ~~[(b) beginning July 1, 2021, under 21 years old.]~~

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

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

531 (b) may revoke or suspend a permit in accordance with Section [26-62-305](#) or
532 [26-62-402](#).

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

534 **26-62-305 (Effective 07/01/20). Penalties.**

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

539 (b) If multiple violations are found in a single inspection by an enforcing agency or
540 investigation, ~~only one violation shall count toward the penalties described in this section.~~ (2)
541 ~~(a) The administrative penalty for~~ by a law enforcement agency under Section [77-39-101](#), the
542 enforcing agency shall treat the multiple violations as one single violation under Subsections
543 (2), (3), and (4).

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

547 (a) on a first violation at a retail location [is], impose a penalty of [not] no more than
548 \$500[-];

549 (b) [The administrative penalty for] on a second violation at the same retail location
550 that occurs within one year of a previous violation [is], impose a penalty of [not] no more than
551 \$750[-];

552 (c) ~~[The administrative penalty for]~~ on a third ~~[or subsequent]~~ violation at the same
553 retail location that occurs within two years after two ~~[or more]~~ previous violations, ~~[is]~~ impose:
554 (i) a suspension of the ~~[retail tobacco business]~~ permit for 30 consecutive business days
555 within 60 days after the day on which the third ~~[or subsequent]~~ violation occurs; or
556 (ii) a penalty of ~~[not]~~ no more than \$1,000[-]; and
557 ~~[(3) The department or a local health department may:]~~
558 ~~[(a) revoke a permit if a fourth violation occurs within two years of three previous~~
559 ~~violations;]~~
560 ~~[(b) in addition to a monetary penalty imposed under Subsection (2), suspend the~~
561 ~~permit if the violation is due to a sale of tobacco products to an individual under:]~~
562 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~
563 ~~[(ii) beginning July 1, 2021, 21 years old; and]~~
564 ~~[(c) 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 (d) on a fourth or subsequent violation within two years of three previous violations:
567 (i) impose a penalty of no more than \$1,000;
568 (ii) revoke a permit of the retailer; and
569 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty
570 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.
571 (3) If a violation is found in an investigation of a general tobacco retailer by a law
572 enforcement agency under Section 77-39-101 for the sale of a tobacco product to an individual
573 under 21 years old and the violation is committed by the owner of the general tobacco retailer,
574 the enforcing agency shall:
575 (a) on a first violation, impose a fine of no more than \$2,000 on the general tobacco
576 retailer; and
577 (b) on the second violation for the same general tobacco retailer within one year of the
578 first violation:
579 (i) impose a fine not exceeding \$5,000; and
580 (ii) revoke the permit for the general tobacco retailer.
581 (4) If a violation is found in an investigation of a retail tobacco specialty business by a
582 law enforcement agency under Section 77-39-101 for the sale of a tobacco product to an

583 individual under 21 years old, the enforcing agency shall apply the provisions of Section
584 26-62-402.

585 [~~(4)~~] (5) (a) Except when a transfer described in Subsection [~~(5)~~] (6) occurs, a local
586 health department may not issue a permit to:

587 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2)
588 or (3) or Section 26-62-402; or

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

592 (b) A person whose permit:

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

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

599 [~~(5)~~] (6) Violations of this chapter, Section 10-8-41.6, [~~or~~] Section 17-50-333, or
600 Section 26-62-402 that occur at a tobacco retailer location shall stay on the record for that
601 tobacco retailer location unless:

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

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

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

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

608 **26-62-401. Verification of proof of age.**

609 (1) As used in this section:

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

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

613 (2) A retail tobacco specialty business shall require that an employee verify proof of

614 age as provided in this section.

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

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

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

618 (4).

619 (4) A retail tobacco specialty business shall use an electronic verification program to

620 assist the business in complying with the requirements of this section.

621 (5) (a) A retail tobacco specialty business may not disclose information obtained under

622 this section except as provided under this part.

623 (b) Information obtained under this section:

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

625 (ii) is subject to inspection upon request by a peace officer or the representative of an

626 enforcing agency.

627 (6) (a) If an employee does not verify proof of age under this section, the employee

628 may not permit an individual to:

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

630 (ii) purchase a tobacco product.

631 (b) In accordance with Subsection [76-10-105.1\(4\)](#), an individual who is under 21 years

632 old may be permitted to enter a retail tobacco specialty business if:

633 (i) the individual is accompanied by a parent or legal guardian who provides proof of

634 age; or

635 (ii) the individual is present at the retail tobacco specialty shop for a bona fide

636 commercial purpose other than to purchase a tobacco product.

637 (7) To determine whether the individual described in Subsection (2) is 21 years old or

638 older, the following may request an individual described in Subsection (2) to present proof of

639 age:

640 (a) an employee;

641 (b) a peace officer; or

642 (c) a representative of an enforcing agency.

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

644 **26-62-402. Penalties.**

645 (1) Except as provided in Subsection (2), if a violation of this part is found in an
646 investigation of a retail tobacco specialty business by a law enforcement agency under Section
647 77-39-101, the enforcing agency shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

676 single violation.

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

678 **51-9-203 (Effective 07/01/20). Requirements for tobacco and electronic cigarette**
679 **programs.**

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

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

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

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

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

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

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

695 (C) if directed toward youth:

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

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

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

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

701 (iv) for enforcement, control, and compliance program, the request shall demonstrate
702 that the proposed program can reasonably be expected to reduce the extent to which [~~tobacco~~
703 ~~products~~] tobacco products and electronic cigarette products, as those terms are defined in
704 Section 76-10-101, are available to individuals under [~~the following ages: (A) beginning July~~
705 ~~1, 2020, and ending June 30, 2021, 20 years old; and (B) beginning July 1, 2021;~~] 21 years
706 old;

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

709 (i) the amount funded;

710 (ii) the amount expended;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

737 (4) An organization that fails to comply with the contract requirements set forth in

738 Subsection (1) shall:

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

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

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

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

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

746 **53-3-229. Prohibited uses of license certificate -- Penalty.**

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

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

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

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

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

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

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

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

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

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

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

768 (b) issue a driver license certificate to [~~a person~~] an individual who is younger than 21

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

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

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

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

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

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

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

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

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

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

787 Section 14. Section [53-3-810](#) is amended to read:

788 **53-3-810. Prohibited uses of identification card -- Penalties.**

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

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

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

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

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

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

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

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

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

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

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

810 (c) acquire, use, display, or transfer a false or altered identification card to procure~~[:]~~ a
 811 tobacco product or an electronic cigarette product, as those terms are defined in Section
 812 [76-10-101](#).

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

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

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

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

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

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

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

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

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

827 **[53G-8-209](#). Extracurricular activities -- Prohibited conduct -- Reporting of**
 828 **violations -- Limitation of liability.**

829 (1) The Legislature recognizes that:

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

831 important educational and lifetime benefits upon students, and encourages school districts and
832 charter schools to provide a variety of opportunities for all students to participate in such
833 activities in meaningful ways;

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

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

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

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

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

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

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

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

858 (iii) the use, possession, or distribution of ~~[an electronic cigarette as defined in Section~~
859 ~~76-10-101, tobacco, or alcoholic beverages contrary to law]~~ a tobacco product or an electronic
860 cigarette product, as those terms are defined in Section 76-10-101, or an alcoholic beverage
861 that is contrary to law; and

862 [(iii)] (iv) hazing, demeaning, or assaultive behavior, whether consensual or not,
863 including behavior involving physical violence, restraint, improper touching, or inappropriate
864 exposure of body parts not normally exposed in public settings, forced ingestion of any
865 substance, or any act which would constitute a crime against a person or public order under
866 Utah law.

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

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

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

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

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

877 **59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine**
878 **operators -- Renewal of certification -- Requirements for certification or renewal of**
879 **certification -- Denial.**

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

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

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

884 or

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

886 (i) the cigarette rolling machine operator; or

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

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

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

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

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

898 (i) December 31 of each year; or

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

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

903 (a) identify:

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

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

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

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

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

913 (A) brand family listed on the commission's directory listing required by Section
914 59-14-603; and

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

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

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

923 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title

924 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection
925 Act;

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

- 929 (A) present at any time; or
- 930 (B) permitted to enter at any time; and

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

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

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

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

937 ~~[(7)]~~ (6) If the commission determines that a cigarette rolling machine operator meets
938 the requirements for certification or renewal of certification under this section, the commission
939 shall grant the certification or renewal of certification.

940 ~~[(8)]~~ (7) If the commission determines that a cigarette rolling machine operator does
941 not meet the requirements for certification or renewal of certification under this section, the
942 commission shall:

- 943 (a) deny the certification or renewal of certification; and
- 944 (b) provide the cigarette rolling machine operator the grounds for denial of the
945 certification or renewal of certification in writing.

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

947 **76-8-311.3. Items prohibited in correctional and mental health facilities --**
948 **Penalties.**

949 (1) As used in this section:

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

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

954 (c) "Correctional facility" means:

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

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

959 (iii) any juvenile detention facility; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

985 (c) a correctional facility operated by a county, acted in conformity with the policy of

986 the county; or

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

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

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

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

999 (d) [~~Any person~~] An individual who, without the permission of the authority operating
1000 the correctional facility or the secure area of a mental health facility, knowingly possesses at a
1001 correctional facility or a secure area of a mental health facility any firearm, ammunition,
1002 dangerous weapon, or implement of escape is guilty of a third degree felony.

1003 (e) [~~Any person~~] An individual violates Section 76-10-306 who knowingly or
1004 intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or
1005 mental health facility.

1006 (5) (a) [~~A person~~] An individual is guilty of a third degree felony who, without the
1007 permission of the authority operating the correctional facility or secure area of a mental health
1008 facility, knowingly transports to or upon a correctional facility or into a secure area of a mental
1009 health facility any:

1010 (i) spirituous or fermented liquor;

1011 (ii) medicine, whether or not lawfully prescribed for the offender; or

1012 (iii) poison in any quantity.

1013 (b) [~~A person~~] An individual is guilty of a third degree felony who knowingly violates
1014 correctional or mental health facility policy or rule by providing or selling to any offender at a
1015 correctional facility or detainee within a secure area of a mental health facility any:

1016 (i) spirituous or fermented liquor;

- 1017 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 1018 (iii) poison in any quantity.
- 1019 (c) An inmate is guilty of a third degree felony who, in violation of correctional or
- 1020 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a
- 1021 mental health facility any:
 - 1022 (i) spirituous or fermented liquor;
 - 1023 (ii) medicine, other than medicine provided by the facility's health care providers in
 - 1024 compliance with facility policy; or
 - 1025 (iii) poison in any quantity.
- 1026 (d) ~~[A person]~~ An individual is guilty of a class A misdemeanor who, with the intent to
- 1027 directly or indirectly provide or sell any tobacco product or electronic cigarette product to an
- 1028 offender, directly or indirectly:
 - 1029 (i) transports, delivers, or distributes any tobacco product or electronic cigarette
 - 1030 product to an offender or on the grounds of any correctional facility;
 - 1031 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another
 - 1032 person to transport any tobacco product or electronic cigarette product to an offender or on any
 - 1033 correctional facility, if the person is acting with the mental state required for the commission of
 - 1034 an offense; or
 - 1035 (iii) facilitates, arranges, or causes the transport of any tobacco product or electronic
 - 1036 cigarette product in violation of this section to an offender or on the grounds of any
 - 1037 correctional facility.
- 1038 (e) ~~[A person]~~ An individual is guilty of a class A misdemeanor who, without the
- 1039 permission of the authority operating the correctional or mental health facility, fails to declare
- 1040 or knowingly possesses at a correctional facility or in a secure area of a mental health facility
- 1041 any:
 - 1042 (i) spirituous or fermented liquor;
 - 1043 (ii) medicine; or
 - 1044 (iii) poison in any quantity.
- 1045 (f) ~~[A person]~~ An individual is guilty of a class B misdemeanor who, without the
- 1046 permission of the authority operating the correctional facility, knowingly engages in any
- 1047 activity that would facilitate the possession of any contraband by an offender in a correctional

1048 facility. The provisions of Subsection (5)(d) regarding any tobacco product or electronic
1049 cigarette product take precedence over this Subsection (5)(f).

1050 (g) Exemptions may be granted for worship for Native American inmates pursuant to
1051 Section [64-13-40](#).

1052 (6) The possession, distribution, or use of a controlled substance at a correctional
1053 facility or in a secure area of a mental health facility shall be prosecuted in accordance with
1054 Title 58, Chapter 37, Utah Controlled Substances Act.

1055 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative
1056 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing
1057 any tobacco product or electronic cigarette product to offenders is a class A misdemeanor.

1058 Section 18. Section **76-10-101** is amended to read:

1059 **76-10-101. Definitions.**

1060 As used in this part:

1061 (1) "Cigar" means a product that contains nicotine, is intended to be burned under
1062 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in
1063 any substance containing tobacco, other than any roll of tobacco that is a cigarette as described
1064 in Subsection (2).

1065 (2) "Cigarette" means a product that contains nicotine, is intended to be burned under
1066 ordinary conditions of use, and consists of:

1067 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

1068 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
1069 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to
1070 be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

1071 [~~(3) "Electronic cigarette" means an electronic cigarette product, as defined in Section~~
1072 [59-14-802](#).]

1073 (3) (a) "Electronic cigarette" means:

1074 (i) any electronic oral device:

1075 (A) that provides an aerosol or a vapor of nicotine or other substance; and

1076 (B) which simulates smoking through the device's use, or through inhalation, of the
1077 device;

1078 (ii) a component of the device described in Subsection (3)(a)(i); and

1079 (iii) an accessory sold in the same package as the device described in Subsection
1080 (3)(a)(i).

1081 (b) "Electronic cigarette" includes an oral device that is:

1082 (i) composed of a heating element, battery, or electronic circuit; and

1083 (ii) marketed, manufactured, distributed, or sold as:

1084 (A) an e-cigarette;

1085 (B) an e-cigar;

1086 (C) an e-pipe; or

1087 (D) any other product name or descriptor, if the function of the product meets the
1088 definition of Subsection (3)(a).

1089 (4) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
1090 substance, or a prefilled electronic cigarette.

1091 (5) "Electronic cigarette substance" means any substance, including liquid containing
1092 nicotine, used or intended for use in an electronic cigarette.

1093 ~~[(4)]~~ (6) "Place of business" includes:

1094 (a) a shop;

1095 (b) a store;

1096 (c) a factory;

1097 (d) a public garage;

1098 (e) an office;

1099 (f) a theater;

1100 (g) a recreation hall;

1101 (h) a dance hall;

1102 (i) a poolroom;

1103 (j) a café;

1104 (k) a cafeteria;

1105 (l) a cabaret;

1106 (m) a restaurant;

1107 (n) a hotel;

1108 (o) a lodging house;

1109 (p) a streetcar;

- 1110 (q) a bus;
- 1111 (r) an interurban or railway passenger coach;
- 1112 (s) a waiting room; and
- 1113 (t) any other place of business.
- 1114 (7) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled
- 1115 with an electronic cigarette substance.
- 1116 (8) "Retail tobacco specialty business" means the same as that term is defined in
- 1117 Section [26-62-102](#).
- 1118 [~~5~~] (9) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
- 1119 lighted smoking equipment.
- 1120 (10) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind
- 1121 that is used, intended for use, or designed for use to package, repack, store, contain,
- 1122 conceal, ingest, inhale, or otherwise introduce a tobacco product or an electronic cigarette
- 1123 substance into the human body.
- 1124 (b) "Tobacco paraphernalia" includes:
- 1125 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
- 1126 screens, permanent screens, hashish heads, or punctured metal bowls;
- 1127 (ii) water pipes;
- 1128 (iii) carburetion tubes and devices;
- 1129 (iv) smoking and carburetion masks;
- 1130 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that
- 1131 has become too small or too short to be held in the hand;
- 1132 (vi) chamber pipes;
- 1133 (vii) carburetor pipes;
- 1134 (viii) electric pipes;
- 1135 (ix) air-driven pipes;
- 1136 (x) chillums;
- 1137 (xi) bongs; and
- 1138 (xii) ice pipes or chillers.
- 1139 (c) "Tobacco paraphernalia" does not include matches or lighters.
- 1140 (11) "Tobacco product" means:

- 1141 (a) a cigar;
- 1142 (b) a cigarette; and
- 1143 (c) tobacco in any form, including:
- 1144 (i) chewing tobacco; and
- 1145 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

- 1146 (12) "Tobacco retailer" means:
- 1147 (a) a general tobacco retailer, as that term is defined in Section [26-62-102](#); and
- 1148 (b) a retail tobacco specialty business.

1149 Section 19. Section **76-10-103 (Effective 07/01/20)** is amended to read:

1150 **76-10-103 (Effective 07/01/20). Permitting minors to use a tobacco product or an**
1151 **electronic cigarette product in place of business.**

1152 It is a class C misdemeanor for the proprietor of any place of business to knowingly
1153 permit an individual under ~~[the following ages]~~ 21 years old to frequent a place of business
1154 while the individual is using ~~[tobacco:]~~ a tobacco product or an electronic cigarette product.

- 1155 ~~[(1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~
- 1156 ~~[(2) beginning July 1, 2021, under 21 years old.]~~

1157 Section 20. Section **76-10-104 (Effective 07/01/20)** is amended to read:

1158 **76-10-104 (Effective 07/01/20). Providing a cigar, cigarette, electronic cigarette,**
1159 **or tobacco to a minor -- Penalties.**

1160 ~~[(1) A person violates this section who knowingly, intentionally, recklessly, or with~~
1161 ~~criminal negligence provides a cigar, cigarette, electronic cigarette, or tobacco in any form, to~~
1162 ~~an individual under the following ages, is guilty of a class C misdemeanor on the first offense,~~
1163 ~~a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent~~
1164 ~~offenses:]~~

- 1165 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~
- 1166 ~~[(b) beginning July 1, 2021, 21 years old.]~~

1167 ~~[(2)]~~ (1) As used in this section "provides":

- 1168 (a) includes selling, giving, furnishing, sending, or causing to be sent; and
- 1169 (b) does not include the acts of the United States Postal Service or other common
1170 carrier when engaged in the business of transporting and delivering packages for others or the
1171 acts of a person, whether compensated or not, who transports or delivers a package for another

1172 person without any reason to know of the package's content.

1173 (2) An individual who knowingly, intentionally, recklessly, or with criminal negligence
 1174 provides a tobacco product or an electronic cigarette product to an individual who is under 21
 1175 years old, is guilty of:

1176 (a) a class C misdemeanor on the first offense;

1177 (b) a class B misdemeanor on the second offense; and

1178 (c) a class A misdemeanor on any subsequent offense.

1179 (3) This section does not apply to conduct of an employee of a tobacco retailer that is a
 1180 violation of Section [76-10-114](#).

1181 Section 21. Section **76-10-104.1 (Effective 07/01/20)** is amended to read:

1182 **76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to minors --**
 1183 **Penalties.**

1184 (1) ~~[For purposes of this section: (a) "Provides"]~~ As used in this section, "provides":

1185 ~~[(i)]~~ (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1186 ~~[(ii)]~~ (b) does not include the acts of the United States Postal Service or other common
 1187 carrier when engaged in the business of transporting and delivering packages for others or the
 1188 acts of a person, whether compensated or not, who transports or delivers a package for another
 1189 person without any reason to know of the package's content.

1190 ~~[(b) "Tobacco paraphernalia":]~~

1191 ~~[(i) means equipment, product, or material of any kind that is used, intended for use, or~~
 1192 ~~designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise~~
 1193 ~~introduce a cigar, cigarette, or tobacco in any form into the human body, including:]~~

1194 ~~[(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without~~
 1195 ~~screens, permanent screens, hashish heads, or punctured metal bowls;]~~

1196 ~~[(B) water pipes;]~~

1197 ~~[(C) carburetion tubes and devices;]~~

1198 ~~[(D) smoking and carburetion masks;]~~

1199 ~~[(E) roach clips, meaning objects used to hold burning material, such as a cigarette,~~
 1200 ~~that has become too small or too short to be held in the hand;]~~

1201 ~~[(F) chamber pipes;]~~

1202 ~~[(G) carburetor pipes;]~~

1203 ~~[(H) electric pipes;]~~

1204 ~~[(I) air-driven pipes;]~~

1205 ~~[(J) chillums;]~~

1206 ~~[(K) bongs; and]~~

1207 ~~[(L) ice pipes or chillers; and]~~

1208 ~~[(ii) does not include matches or lighters.]~~

1209 (2) (a) It is unlawful for ~~[a person]~~ an individual to knowingly, intentionally,
 1210 recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under[:
 1211 ~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1,~~
 1212 ~~2021,]~~ 21 years old.

1213 (b) ~~[A person]~~ An individual who violates this section is guilty of:

1214 (i) a class C misdemeanor on the first offense; and

1215 (ii) a class B misdemeanor on any subsequent ~~[offenses]~~ offense.

1216 Section 22. Section **76-10-105 (Effective 07/01/20)** is amended to read:

1217 **76-10-105 (Effective 07/01/20). Buying or possessing a tobacco product or an**
 1218 **electronic cigarette product by a minor -- Penalty -- Compliance officer authority --**
 1219 **Juvenile court jurisdiction.**

1220 (1) ~~[(a)]~~ An individual who is 18 years old or older, but younger than ~~[the age specified~~
 1221 ~~in Subsection (1)(b)]~~ 21 years old, and who buys or attempts to buy, accepts, or has in the
 1222 individual's possession ~~[any cigar, cigarette, electronic cigarette, or tobacco in any form]~~ a
 1223 tobacco product or an electronic cigarette product is:

1224 (a) guilty of an infraction; and

1225 (b) subject to:

1226 (i) a minimum fine or penalty of \$60; and

1227 (ii) participation in a court-approved tobacco education or cessation program, which
 1228 may include a participation fee.

1229 ~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

1230 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1231 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1232 (2) (a) An individual who is under ~~[the age of]~~ 18 years old and who buys or attempts
 1233 to buy, accepts, or has in the individual's possession ~~[any cigar, cigarette, electronic cigarette,~~

1234 ~~or tobacco in any form]~~ a tobacco product or an electronic cigarette product is subject to the
 1235 jurisdiction of the juvenile court and subject to Section [78A-6-602](#), unless the violation is
 1236 committed on school property.

1237 (b) If a violation under this section is adjudicated under Section [78A-6-117](#), the minor
 1238 may be subject to the following:

1239 [(a)] (i) a fine or penalty, in accordance with Section [78A-6-117](#); and

1240 [(b)] (ii) participation in a court-approved tobacco education program, which may
 1241 include a participation fee.

1242 (3) (a) A compliance officer appointed by a board of education under Section
 1243 [53G-4-402](#) may not issue a citation for a violation of this section committed on school
 1244 property.

1245 (b) A cited violation committed on school property shall be addressed in accordance
 1246 with Section [53G-8-211](#).

1247 ~~[(4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,
 1248 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older
 1249 and is:]~~

1250 ~~[(i) on active duty in the United States Armed Forces; or]~~

1251 ~~[(ii) a spouse or dependent of an individual who is on active duty in the United States
 1252 Armed Forces:]~~

1253 ~~[(b) A valid, government-issued military identification card is required to verify proof
 1254 of age under Subsection (4)(a):]~~

1255 Section 23. Section **76-10-105.1 (Effective 07/01/20)** is amended to read:

1256 **76-10-105.1 (Effective 07/01/20). Requirement of direct, face-to-face sale of**
 1257 **tobacco products and electronic cigarette products -- Minors not allowed in retail tobacco**
 1258 **specialty business -- Penalties.**

1259 (1) As used in this section:

1260 [(a) "Cigarette" means the same as that term is defined in Section [59-14-102](#).]

1261 [(b)] (a) (i) "Face-to-face exchange" means a transaction made in person between an
 1262 individual and a retailer or retailer's employee.

1263 (ii) "Face-to-face exchange" does not include a sale through a:

1264 (A) vending machine; or

1265 (B) self-service display.

1266 ~~[(e)]~~ (b) "Retailer" means a person who:

1267 (i) sells a ~~[cigarette, tobacco,]~~ tobacco product or an electronic cigarette product to an

1268 individual for personal consumption; or

1269 (ii) operates a facility with a vending machine that sells a ~~[cigarette, tobacco,]~~ tobacco

1270 product or an electronic cigarette product.

1271 ~~[(d)]~~ (c) "Self-service display" means a display of a ~~[cigarette, tobacco,]~~ tobacco

1272 product or an electronic cigarette product to which the public has access without the

1273 intervention of a retailer or retailer's employee.

1274 ~~[(e)] "Tobacco" means any product, except a cigarette, made of or containing tobacco.]~~

1275 ~~[(f)] "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is~~

1276 ~~defined:]~~

1277 ~~[(i) as it relates to a municipality, in Section 10-8-41.6; and]~~

1278 ~~[(ii) as it relates to a county, in Section 17-50-333:]~~

1279 (2) Except as provided in Subsection (3), a retailer may sell a ~~[cigarette, tobacco,]~~

1280 tobacco product or an electronic cigarette product only in a face-to-face exchange.

1281 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

1282 (a) a mail-order, telephone, or Internet sale made in compliance with Section

1283 [59-14-509](#);

1284 (b) a sale from a vending machine or self-service display that is located in an area of a

1285 retailer's facility:

1286 (i) that is distinct and separate from the rest of the facility; and

1287 (ii) where the retailer only allows an individual who complies with Subsection (4) to be

1288 present; or

1289 (c) a sale at a retail tobacco specialty ~~[shop]~~ business.

1290 (4) ~~[(a)]~~ An individual who ~~[is less than the age specified in Subsection (4)(b)]~~ is under

1291 21 years old may not enter or be present at a ~~[tobacco specialty shop]~~ retail tobacco specialty

1292 business unless the individual is:

1293 ~~[(i)]~~ (a) accompanied by a parent or legal guardian;

1294 ~~[(ii)]~~ (b) present at the ~~[tobacco shop]~~ retail tobacco specialty business for a bona fide

1295 commercial purpose other than to purchase a ~~[cigarette, tobacco,]~~ tobacco product or an

1296 electronic cigarette~~[; or]~~ product.

1297 ~~[(iii) 18 years old or older and an active duty member of the United States Armed~~
1298 ~~Forces, as demonstrated by a valid, government-issued military identification card.]~~

1299 ~~[(b) For purposes of Subsection (4)(a), the individual is younger than:]~~

1300 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1301 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1302 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)(i), an
1303 individual into an area described in Subsection (3)(b)~~;~~ or into a ~~[tobacco specialty shop]~~ retail
1304 tobacco specialty business, may not allow the individual to purchase a ~~[cigarette, tobacco,]~~
1305 tobacco product or an electronic cigarette product.

1306 (6) A violation of Subsection (2) or (4) is a:

1307 (a) class C misdemeanor on the first offense;

1308 (b) class B misdemeanor on the second offense; and

1309 (c) class A misdemeanor on ~~[the third and all]~~ any subsequent offenses.

1310 (7) An individual who violates Subsection (5) is guilty of ~~[providing tobacco to a~~
1311 ~~minor]~~ an offense under Section [76-10-104](#).

1312 ~~[(8) (a) An ordinance, regulation, or rule adopted by the governing body of a political~~
1313 ~~subdivision of the state or by a state agency that affects the sale, minimum age of sale,~~
1314 ~~placement, or display of cigarettes, tobacco, or electronic cigarettes that is not essentially~~
1315 ~~identical to this section and Section [76-10-102](#) is superseded.]~~

1316 ~~[(b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use~~
1317 ~~ordinance by a municipal or county government.]~~

1318 Section 24. Section **76-10-112** is amended to read:

1319 **76-10-112. Prohibition of distribution of electronic cigarette product --**

1320 **Exceptions.**

1321 (1) (a) Except as provided in Subsection ~~[(2)]~~ (3), it is unlawful for a manufacturer,
1322 wholesaler, or tobacco retailer to:

1323 (i) give or distribute ~~[cigarettes or other tobacco products]~~ an electronic cigarette
1324 product in this state without charge~~;~~];

1325 (ii) except as provided in Subsection (1)(b), sell, offer for sale, or furnish an electronic
1326 cigarette product at less than the cost of the product to the manufacturer, wholesaler, or tobacco

1327 retailer; or
1328 (iii) give, distribute, sell, offer to sale, or furnish an electronic cigarette product for free
1329 or at a lower price because the purchaser makes another purchase.
1330 (b) The price that a manufacturer, wholesaler, or tobacco retailer may charge under
1331 Subsection (1)(a)(ii) does not include a discount for:
1332 (i) a manufacturer coupon:
1333 (A) that is surrendered to the tobacco retailer at the time of sale; and
1334 (B) for which the manufacturer will reimburse the wholesaler or tobacco retailer for the
1335 full amount of the discount described in the manufacturer coupon and provided to the
1336 purchaser;
1337 (ii) a rebate that will be paid to the manufacturer, wholesaler, or tobacco retailer for the
1338 full amount of the rebate provided to the purchaser; or
1339 (iii) a promotional fund that will be paid to the manufacturer, wholesaler, or tobacco
1340 retailer for the full amount of the promotional fund provided to the purchaser.
1341 (2) [Any person] An individual who violates this subsection is guilty of:
1342 (a) a class C misdemeanor for the first offense; and
1343 (b) a class B misdemeanor for any subsequent offense.
1344 [~~(2)~~] (3) [~~Cigarettes and other tobacco products~~] An electronic cigarette product may
1345 be distributed to [~~adults~~] an adult without charge at a professional [~~conventions~~] convention
1346 where the general public is excluded.
1347 [~~(3) The prohibition described in Subsection (1) does not apply to retailers,~~
1348 ~~manufacturers, or distributors who give cigarettes or other tobacco products to persons of legal~~
1349 ~~age upon their purchase of cigarettes or other tobacco products.]~~
1350 Section 25. Section **76-10-113** is enacted to read:
1351 **76-10-113. Unlawful transfer or use of proof of age.**
1352 (1) As used in this section:
1353 (a) "Proof of age" means:
1354 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification
1355 Card Act;
1356 (ii) a valid identification that:
1357 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,

1358 Part 8, Identification Card Act;

1359 (B) is issued in accordance with the laws of a state other than Utah in which the
1360 identification is issued;

1361 (C) includes date of birth; and

1362 (D) has a picture affixed;

1363 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform

1364 Driver License Act, or in accordance with the laws of the state in which the valid driver license
1365 is issued;

1366 (iv) a valid United States military identification card that:

1367 (A) includes date of birth; and

1368 (B) has a picture affixed; or

1369 (v) a valid passport.

1370 (b) "Proof of age" does not include a driving privilege card issued in accordance with
1371 Section [53-3-207](#).

1372 (2) An individual who knowingly and intentionally transfers that individual's proof of
1373 age to another individual to aid that individual in purchasing a tobacco product or an electronic
1374 cigarette product, or in gaining admittance to any part of the premises of a retail tobacco
1375 specialty business, is guilty of a class B misdemeanor.

1376 (3) An individual who knowingly and intentionally uses proof of age containing false
1377 information with the intent to purchase a tobacco product or an electronic cigarette product, or
1378 to gain admittance to any part of the premises of a retail tobacco specialty business, is guilty of
1379 a class A misdemeanor.

1380 Section 26. Section **76-10-114** is enacted to read:

1381 **76-10-114. Unlawful sale of a tobacco product or electronic cigarette product.**

1382 (1) As used in this section:

1383 (a) "Compensatory service" means service or unpaid work performed by an employee,
1384 in lieu of the payment of a fine or imprisonment.

1385 (b) "Employee" means an employee or an owner of a tobacco retailer.

1386 (2) It is unlawful for an employee to knowingly or intentionally sell or give a tobacco
1387 product or an electronic cigarette product in the course of business to an individual who is
1388 under 21 years old.

1389 (3) An employee who violates this section is:

1390 (a) on a first violation:

1391 (i) guilty of an infraction; and

1392 (ii) subject to:

1393 (A) a fine not exceeding \$1,000; or

1394 (B) compensatory service;

1395 (b) on any subsequent violation:

1396 (i) guilty of a class C misdemeanor; and

1397 (ii) subject to:

1398 (A) a fine not exceeding \$2,000; or

1399 (B) compensatory service.

1400 Section 27. Section **76-10-115** is enacted to read:

1401 **76-10-115. Ordinances, rules, and regulations.**

1402 (1) Except as provided in Subsection (2), an ordinance, rule, or regulation adopted by a
1403 governing body of a political subdivision of the state or a state agency is superseded if:

1404 (a) the ordinance, rule, or regulation affects:

1405 (i) the minimum age of sale for a tobacco product, an electronic cigarette product, or
1406 tobacco paraphernalia;

1407 (ii) the provision of a tobacco product, an electronic cigarette product, or tobacco
1408 paraphernalia;

1409 (iii) the flavoring of a tobacco product or an electronic cigarette product;

1410 (iv) the purchase or possession of a tobacco product, an electronic cigarette product, or
1411 tobacco paraphernalia; or

1412 (v) the sale, placement, or display of a tobacco product or an electronic cigarette
1413 product; and

1414 (b) the ordinance, rule, or regulation is not essentially identical to any state statute
1415 relating to the applicable subject described in Subsection (1)(a).

1416 (2) A governing body of a political subdivision of the state or a state agency may adopt
1417 an ordinance, rule, or regulation on a subject described in Subsections (1)(a)(i) through (v) if
1418 the governing body of a political subdivision of the state or a state agency is authorized by
1419 statute to adopt the ordinance, rule, or regulation.

1420 (3) Subsection (1) does not apply to the adoption or enforcement of a land use
1421 ordinance by a municipal or county government.

1422 Section 28. Section **77-39-101 (Effective 07/01/20)** is amended to read:

1423 **77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco, and**
1424 **electronic cigarettes to underage individuals.**

1425 (1) As used in this section[~~,"electronic cigarette" is as~~]:

1426 (a) "Electronic cigarette product" means the same as that term is defined in Section
1427 76-10-101.

1428 (b) "Tobacco product means the same as that term is defined in Section 76-10-101.

1429 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer
1430 Classifications, may investigate the possible violation of:

1431 (i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and
1432 attempt to purchase or make a purchase of alcohol from a retail establishment; or

1433 (ii) Section [~~76-10-104~~] 76-10-114 by requesting an individual under [~~the age specified~~
1434 ~~in Subsection (2)(e)] 21 years old to enter into and attempt to purchase or make a purchase
1435 from a retail establishment of:~~

1436 (A) a [~~cigar~~] tobacco product; or

1437 [~~(B) a cigarette;~~]

1438 [~~(C) tobacco in any form; or~~]

1439 [~~(D)~~] (B) an electronic cigarette product.

1440 (b) A peace officer who is present at the site of a proposed purchase shall direct,
1441 supervise, and monitor the individual requested to make the purchase.

1442 (c) Immediately following a purchase or attempted purchase or as soon as practical the
1443 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
1444 establishment that the attempted purchaser was under the legal age to purchase:

1445 (i) alcohol; or

1446 (ii) (A) a [~~cigar~~] tobacco product; or

1447 [~~(B) a cigarette;~~]

1448 [~~(C) tobacco in any form; or~~]

1449 [~~(D)~~] (B) an electronic cigarette product.

1450 (d) If a citation or information is issued, [~~it~~] the citation or information shall be issued

1451 within seven days of the purchase.

1452 ~~[(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:]~~

1453 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1454 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1455 (3) (a) If an individual under ~~[the age of]~~ 18 years old is requested to attempt a
1456 purchase, a written consent of that individual's parent or guardian shall be obtained prior to that
1457 individual participating in any attempted purchase.

1458 (b) An individual requested by the peace officer to attempt a purchase may:

1459 (i) be a trained volunteer; or

1460 (ii) receive payment, but may not be paid based on the number of successful purchases
1461 of alcohol, tobacco products, or ~~[an]~~ electronic cigarette products.

1462 (4) The individual requested by the peace officer to attempt a purchase and anyone
1463 accompanying the individual attempting a purchase may not during the attempted purchase
1464 misrepresent the age of the individual by false or misleading identification documentation in
1465 attempting the purchase.

1466 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
1467 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
1468 purchase of, or possession of alcohol, a ~~[cigar, a cigarette, tobacco in any form]~~ tobacco
1469 product, or an electronic cigarette product if a peace officer directs, supervises, and monitors
1470 the individual.

1471 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
1472 shall be conducted~~[:]~~ within a 12-month period:

1473 ~~[(i) on a random basis; and]~~

1474 ~~[(ii) within a 12-month period at any one retail establishment location not more often
1475 than:]~~

1476 ~~[(A) two times for the attempted purchase of:]~~

1477 ~~[(I) a cigar;]~~

1478 ~~[(II) a cigarette;]~~

1479 ~~[(III) tobacco in any form; or]~~

1480 ~~[(IV) an electronic cigarette; and]~~

1481 ~~[(B) four times for the attempted purchase of alcohol.]~~

1482 (i) on a random basis at any one retail establishment location, not more often than four
1483 times for the attempted purchase of alcohol; and

1484 (ii) a minimum of two times at a retail establishment that sells tobacco products or
1485 electronic cigarette products for the attempted purchase of a tobacco product or an electronic
1486 cigarette product.

1487 (b) This section does not prohibit an investigation or an attempt to purchase [~~tobacco~~
1488 alcohol, a tobacco product, or an electronic cigarette product under this section if:

1489 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
1490 [~~cigar, a cigarette, tobacco in any form~~] tobacco product, or an electronic cigarette product to
1491 an individual under the age established by Section [32B-4-403](#) or [~~76-10-104~~] [76-10-114](#); and

1492 (ii) the supervising peace officer makes a written record of the grounds for the
1493 reasonable suspicion.

1494 (7) (a) The peace officer exercising direction, supervision, and monitoring of the
1495 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
1496 was made.

1497 (b) The report required by this Subsection (7) shall include:

1498 (i) the name of the supervising peace officer;

1499 (ii) the name of the individual attempting the purchase;

1500 (iii) a photograph of the individual attempting the purchase showing how that
1501 individual appeared at the time of the attempted purchase;

1502 (iv) the name and description of the cashier or proprietor from whom the individual
1503 attempted the purchase;

1504 (v) the name and address of the retail establishment; and

1505 (vi) the date and time of the attempted purchase.

1506 Section 29. **Effective date.**

1507 This bill takes effect on July 1, 2020.