

**Senator Allen M. Christensen** proposes the following substitute bill:

**ELECTRONIC CIGARETTE AND OTHER NICOTINE  
PRODUCT AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Allen M. Christensen**

House Sponsor: Paul Ray

7	Cosponsors:	Jani Iwamoto	Kathleen Riebe
8	David G. Buxton	Derek L. Kitchen	Scott D. Sandall
9	Luz Escamilla	Karen Mayne	Jerry W. Stevenson
10	Keith Grover	Ann Millner	Ronald Winterton
11	Wayne A. Harper	Ralph Okerlund	
	Lyle W. Hillyard		

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**LONG TITLE**

**General Description:**

This bill enacts and amends provisions relating to electronic cigarette products and nicotine products.

**Highlighted Provisions:**

This bill:

- ▶ defines and coordinates terms;
- ▶ increases the minimum age for obtaining, possessing, using, providing, or furnishing of tobacco products, paraphernalia, and under certain circumstances, electronic cigarettes to 21 years old;
- ▶ imposes permitting requirements and processes for the sale of a nicotine product;



- 24           ▶ requires a tobacco retailer to provide itemized receipts and to maintain an itemized
- 25 transaction log for sales of a tobacco product, an electronic cigarette product, or a
- 26 nicotine product;
- 27           ▶ establishes a Youth Electronic Cigarette, Marijuana, and Other Drug Prevention
- 28 Program within the Department of Health;
- 29           ▶ creates a committee to advise the department on the Youth Electronic Cigarette,
- 30 Marijuana, and Other Drug Prevention Program;
- 31           ▶ applies civil penalties to the improper sale of a nicotine product;
- 32           ▶ requires certain nicotine products to have a statement on the products' exterior
- 33 packages that the products contain nicotine;
- 34           ▶ imposes licensing and bonding requirements on a person that sells or distributes an
- 35 electronic cigarette product or a nicotine product;
- 36           ▶ imposes an excise tax on the sale in the state of an electronic cigarette substance, a
- 37 prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic
- 38 nicotine device substance, and a prefilled nontherapeutic nicotine device;
- 39           ▶ provides for the remittance of the tax collected;
- 40           ▶ creates the Electronic Cigarette Substance and Nicotine Product Tax Restricted
- 41 Account;
- 42           ▶ addresses use of revenue from the taxation of an electronic cigarette substance, a
- 43 prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic
- 44 nicotine device substance, and a prefilled nontherapeutic nicotine device;
- 45           ▶ provides criminal penalties for a sale or a purchase of an electronic cigarette product
- 46 or a nicotine product in violation of the law;
- 47           ▶ prohibits a manufacturer, a wholesaler, or a retailer from providing certain discounts
- 48 or giveaways for electronic cigarettes; and
- 49           ▶ makes technical and conforming changes.

50 **Money Appropriated in this Bill:**

51           None

52 **Other Special Clauses:**

53           This bill provides a special effective date.

54 **Utah Code Sections Affected:**

55 AMENDS:

- 56 **10-8-41.6**, as last amended by Laws of Utah 2018, Chapter 231
- 57 **10-8-47 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 58 **17-50-333**, as last amended by Laws of Utah 2018, Chapter 231
- 59 **26-1-7**, as last amended by Laws of Utah 2017, Chapter 419
- 60 **26-38-2**, as last amended by Laws of Utah 2018, Chapters 231 and 281
- 61 **26-57-101**, as enacted by Laws of Utah 2015, Chapter 132
- 62 **26-57-102**, as enacted by Laws of Utah 2015, Chapter 132
- 63 **26-62-101**, as enacted by Laws of Utah 2018, Chapter 231
- 64 **26-62-102**, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 65 **26-62-201**, as enacted by Laws of Utah 2018, Chapter 231
- 66 **26-62-202**, as last amended by Laws of Utah 2019, Chapter 157
- 67 **26-62-205 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 68 **26-62-301**, as enacted by Laws of Utah 2018, Chapter 231
- 69 **26-62-304 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 70 **26-62-305 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 71 **26-62-306**, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 72 **26A-1-128**, as enacted by Laws of Utah 2018, Chapter 231
- 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-4-402**, as last amended by Laws of Utah 2019, Chapters 83, 293, and 451
- 78 **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293
- 79 **59-14-102**, as last amended by Laws of Utah 2013, Chapter 148
- 80 **59-14-302**, as last amended by Laws of Utah 2014, Chapter 189
- 81 **59-14-703 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
- 82 **59-14-801**, as enacted by Laws of Utah 2015, Chapter 132
- 83 **59-14-802**, as last amended by Laws of Utah 2019, Chapter 136
- 84 **59-14-803**, as last amended by Laws of Utah 2018, Chapter 231
- 85 **63I-1-226**, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and

86 last amended by Coordination Clause, Laws of Utah 2019, Chapter 246  
87 **76-8-311.3**, as last amended by Laws of Utah 2010, Chapter 114  
88 **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended  
89 by Coordination Clause, Laws of Utah 2015, Chapter 132  
90 **76-10-103 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
91 **76-10-104 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
92 **76-10-104.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
93 **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
94 **76-10-105.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
95 **76-10-111**, as last amended by Laws of Utah 2010, Chapter 114  
96 **77-39-101 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

97 ENACTS:

98 **26-7-10**, Utah Code Annotated 1953  
99 **26-57-104**, Utah Code Annotated 1953  
100 **26-62-206**, Utah Code Annotated 1953  
101 **59-14-804**, Utah Code Annotated 1953  
102 **59-14-805**, Utah Code Annotated 1953  
103 **59-14-806**, Utah Code Annotated 1953  
104 **59-14-807**, Utah Code Annotated 1953  
105 **59-14-808**, Utah Code Annotated 1953

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

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

109 **10-8-41.6. Regulation of retail tobacco specialty business.**

110 (1) As used in this section:

111 (a) "Community location" means:

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

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

114 (iii) a trade or technical school;

115 (iv) a church;

116 (v) a public library;

- 117 (vi) a public playground;
- 118 (vii) a public park;
- 119 (viii) a youth center or other space used primarily for youth oriented activities;
- 120 (ix) a public recreational facility;
- 121 (x) a public arcade; or
- 122 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 123 (b) "Department" means the Department of Health, created in Section [26-1-4](#).
- 124 (c) "Electronic cigarette product" means the same as that term is defined in Section
- 125 [76-10-101](#).
- 126 (d) "Licensee" means a person licensed under this section to conduct business as a
- 127 retail tobacco specialty business.
- 128 [~~(e)~~] (e) "Local health department" means the same as that term is defined in Section
- 129 [26A-1-102](#).
- 130 (f) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).
- 131 [~~(d)~~ "Permittee" means a person licensed under this section to conduct business as a
- 132 retail tobacco specialty business.]
- 133 [~~(e)~~] (g) "Retail tobacco specialty business" means a commercial establishment in
- 134 which:
- 135 (i) [~~the sale of tobacco products accounts~~] sales of tobacco products, electronic
- 136 cigarette products, and nicotine products account for more than 35% of the total quarterly gross
- 137 receipts for the establishment;
- 138 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 139 storage of tobacco products, electronic cigarette products, and nicotine products;
- 140 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
- 141 tobacco products, electronic cigarette products, and nicotine products; or
- 142 (iv) the retail space features a self-service display for tobacco products, electronic
- 143 cigarette products, and nicotine products.
- 144 [~~(f)~~] (h) "Self-service display" means the same as that term is defined in Section
- 145 [76-10-105.1](#).
- 146 [~~(g)~~] (i) "Tobacco product" means[~~:~~] the same as that term is defined in Section
- 147 [76-10-101](#).

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

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

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

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

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

155           (2) The regulation of a retail tobacco specialty business is an exercise of the police  
156 powers of the state, and through delegation, to other governmental entities.

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

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

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

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

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

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

168           (A) agriculture use; or

169           (B) residential use.

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

174           (5) ~~[(a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a]~~ A  
175 municipality may not issue or renew a license for a person to conduct business as a retail  
176 tobacco specialty business until the person provides the municipality with proof that the retail  
177 tobacco specialty business has:

178           ~~[(i)]~~ (a) a valid permit for a retail tobacco specialty business issued under Title 26,

179 Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local  
180 health department having jurisdiction over the area in which the retail tobacco specialty  
181 business is located; and

182 ~~[(ii)]~~ (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State  
183 Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell [tobacco products  
184 from the State Tax Commission.] a tobacco product; and

185 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid  
186 license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an  
187 electronic cigarette product or a nicotine product.

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

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

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

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

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

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

200 (ii) if a licensee violates the regulations restricting the sale and distribution of  
201 cigarettes and smokeless tobacco to protect children and adolescents issued by the United  
202 States Food and Drug Administration, 21 C.F.R. Part 1140;

203 (iii) upon the recommendation of the department or a local health department under  
204 Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

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

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

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

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

214 (ii) the retail tobacco specialty business does not close for business or otherwise  
215 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for  
216 more than 60 consecutive days;

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

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

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

222 (B) zoning ordinances;

223 (C) building codes; and

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

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

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

232 (1) A municipal legislative body may:

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

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

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

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



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

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

246 (f) prohibit the sale, giving away, or furnishing of tobacco or [~~e-cigarettes~~] an  
247 electronic cigarette product to an individual younger than[:] 21 years old.

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

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

250 (2) A city may:

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

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

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

259 **17-50-333. Regulation of retail tobacco specialty business.**

260 (1) As used in this section:

261 (a) "Community location" means:

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

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

264 (iii) a trade or technical school;

265 (iv) a church;

266 (v) a public library;

267 (vi) a public playground;

268 (vii) a public park;

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

270 (ix) a public recreational facility;

271 (x) a public arcade; or

- 272 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 273 (b) "Department" means the Department of Health, created in Section [26-1-4](#).
- 274 (c) "Electronic cigarette product" means the same as that term is defined in Section
- 275 [76-10-101](#).
- 276 ~~[(e)]~~ (d) "Licensee" means a person licensed under this section to conduct business as a
- 277 retail tobacco specialty business.
- 278 ~~[(d)]~~ (e) "Local health department" means the same as that term is defined in Section
- 279 [26A-1-102](#).
- 280 (f) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).
- 281 ~~[(e)]~~ (g) "Retail tobacco specialty business" means a commercial establishment in
- 282 which:
- 283 (i) ~~[the sale of tobacco products accounts]~~ sales of tobacco products, electronic
- 284 cigarette products, and nicotine products account for more than 35% of the total quarterly gross
- 285 receipts for the establishment;
- 286 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 287 storage of tobacco products, electronic cigarette products, and nicotine products;
- 288 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
- 289 tobacco products, electronic cigarette products, and nicotine products; or
- 290 (iv) the retail space features a self-service display for tobacco products, electronic
- 291 cigarette products, and nicotine products.
- 292 ~~[(f)]~~ (h) "Self-service display" means the same as that term is defined in Section
- 293 [76-10-105.1](#).
- 294 ~~[(g)]~~ (i) "Tobacco product" means~~[:]~~ the same as that term is defined in Section
- 295 [76-10-101](#).
- 296 ~~[(i) any cigar, cigarette, or electronic cigarette as those terms are defined in Section~~
- 297 [76-10-101](#);
- 298 ~~[(ii) a tobacco product as that term is defined in Section [59-14-102](#), including:]~~
- 299 ~~[(A) chewing tobacco; or]~~
- 300 ~~[(B) any substitute for a tobacco product, including flavoring or additives to tobacco;~~
- 301 ~~and]~~
- 302 ~~[(iii) tobacco paraphernalia as that term is defined in Section [76-10-104.1](#).]~~

303 (2) The regulation of a retail tobacco specialty business is an exercise of the police  
304 powers of the state, and through delegation, to other governmental entities.

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

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

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

- 313 (i) 1,000 feet of a community location;
- 314 (ii) 600 feet of another retail tobacco specialty business; or
- 315 (iii) 600 feet from property used or zoned for:
  - 316 (A) agriculture use; or
  - 317 (B) residential use.

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

322 (5) ~~[(a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a]~~ A county  
323 may not issue or renew a license for a person to conduct business as a retail tobacco specialty  
324 business until the person provides the county with proof that the retail tobacco specialty  
325 business has:

326 ~~[(i)]~~ (a) a valid permit for a retail tobacco specialty business issued under Title 26,  
327 Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local  
328 health department having jurisdiction over the area in which the retail tobacco specialty  
329 business is located; and

330 ~~[(ii)]~~ (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State  
331 Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell [tobacco products  
332 from the State Tax Commission.] a tobacco product; or

333 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid

334 license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an  
335 electronic cigarette product or a nicotine product.

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

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

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

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

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

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

347 (ii) if a licensee violates the regulations restricting the sale and distribution of  
348 cigarettes and smokeless tobacco to protect children and adolescents issued by the United  
349 States Food and Drug Administration, 21 C.F.R. Part 1140;

350 (iii) upon the recommendation of the department or a local health department under  
351 Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

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

353 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has  
354 a business license and is operating in a county in accordance with all applicable laws except for  
355 the requirement in Subsection (4), on or before December 31, 2015, is exempt from Subsection  
356 (4).

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

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

361 (ii) the retail tobacco specialty business does not close for business or otherwise  
362 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for  
363 more than 60 consecutive days;

364 (iii) the retail tobacco specialty business does not substantially change the business

365 premises or business operation; and

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

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

369 (B) zoning ordinances;

370 (C) building codes; and

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

373 Section 4. Section **26-1-7** is amended to read:

374 **26-1-7. Committees within department.**

375 (1) There are created within the department the following committees:

376 (a) Health Facility Committee;

377 (b) State Emergency Medical Services Committee;

378 (c) Air Ambulance Committee;

379 (d) Health Data Committee;

380 (e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

381 (f) Residential Child Care Licensing Advisory Committee;

382 (g) Child Care Center Licensing Committee; [~~and~~]

383 (h) Primary Care Grant Committee[:]; and

384 (i) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee.

385 (2) The department shall:

386 (a) consolidate advisory groups and committees with other committees or advisory  
387 groups as appropriate to create greater efficiencies and budgetary savings for the department;  
388 and

389 (b) create in writing, time-limited and subject-limited duties for the advisory groups or  
390 committees as necessary to carry out the responsibilities of the department.

391 Section 5. Section **26-7-10** is enacted to read:

392 **26-7-10. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention**

393 **Program.**

394 (1) As used in this section:

395 (a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug

396 Prevention Committee created in Section [26-1-7](#).

397 (b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug

398 Prevention Program created in this section.

399 (2) (a) There is created within the department the Youth Electronic Cigarette,

400 Marijuana, and Other Drug Prevention Program.

401 (b) In consultation with the committee, the department shall:

402 (i) establish guidelines for the use of funds appropriated to the program;

403 (ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and

404 appropriate for the population targeted by the program; and

405 (iii) subject to appropriations from the Legislature, fund initiatives to prevent use of

406 electronic cigarettes, marijuana, and other drugs by youth.

407 (3) (a) The committee shall advise the department on:

408 (i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the

409 state;

410 (ii) developing the guidelines described in Subsection (2)(b)(i); and

411 (iii) implementing the provisions of the program.

412 (b) The executive director shall:

413 (i) appoint members of the committee; and

414 (ii) consult with the Utah Substance Use and Mental Health Advisory Council created

415 in Section [63M-7-301](#) when making the appointment under Subsection (3)(b)(i).

416 (c) A member of the committee may not receive compensation or benefits for the

417 member's service on the committee, but may receive per diem and travel expenses in

418 accordance with:

419 (i) Section [63A-3-106](#);

420 (ii) Section [63A-3-107](#); and

421 (iii) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

422 (d) The department shall provide staff support to the committee.

423 (4) On or before October 31 of each year, the department shall report to:

424 (a) the Health and Human Services Interim Committee regarding:

425 (i) the use of funds appropriated to the program;

426 (ii) the impact and results of the program, including the effectiveness of each program

427 funded under Subsection (2)(b)(iii), during the previous fiscal year; and

428 (iii) any recommendations for legislation; and

429 (b) the Utah Substance Use and Mental Health Advisory Council created in Section

430 63M-7-301, regarding:

431 (i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing  
 432 youth use of electronic cigarettes, marijuana, and other drugs; and

433 (ii) any collaborative efforts and partnerships established by the program with public  
 434 and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

435 Section 6. Section **26-38-2** is amended to read:

436 **26-38-2. Definitions.**

437 As used in this chapter:

438 [~~(1) "E-cigarette".~~]

439 [~~(a) means any electronic oral device;~~]

440 [~~(i) that provides an aerosol or a vapor of nicotine or other substance; and]~~

441 [~~(ii) which simulates smoking through its use or through inhalation of the device; and]~~

442 [~~(b) includes an oral device that is:~~]

443 [~~(i) composed of a heating element, battery, or electronic circuit; and]~~

444 [~~(ii) marketed, manufactured, distributed, or sold as:~~]

445 [~~(A) an e-cigarette;~~]

446 [~~(B) e-cigar;~~]

447 [~~(C) e-pipe; or]~~

448 [~~(D) any other product name or descriptor, if the function of the product meets the~~  
 449 ~~definition of Subsection (1)(a).]~~

450 (1) "Electronic cigarette" means the same as that term is defined in Section [76-10-101](#).

451 (2) "Non-tobacco shisha" means any product that:

452 (a) does not contain tobacco or nicotine; and

453 (b) is smoked or intended to be smoked in a hookah or water pipe.

454 (3) "Place of public access" means any enclosed indoor place of business, commerce,  
 455 banking, financial service, or other service-related activity, whether publicly or privately owned  
 456 and whether operated for profit or not, to which persons not employed at the place of public  
 457 access have general and regular access or which the public uses, including:

- 458 (a) buildings, offices, shops, elevators, or restrooms;
- 459 (b) means of transportation or common carrier waiting rooms;
- 460 (c) restaurants, cafes, or cafeterias;
- 461 (d) taverns as defined in Section [32B-1-102](#), or cabarets;
- 462 (e) shopping malls, retail stores, grocery stores, or arcades;
- 463 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
- 464 sites, auditoriums, or arenas;
- 465 (g) barber shops, hair salons, or laundromats;
- 466 (h) sports or fitness facilities;
- 467 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
- 468 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
- 469 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
- 470 of these;
- 471 (j) (i) any child care facility or program subject to licensure or certification under this
- 472 title, including those operated in private homes, when any child cared for under that license is
- 473 present; and
- 474 (ii) any child care, other than child care as defined in Section [26-39-102](#), that is not
- 475 subject to licensure or certification under this title, when any child cared for by the provider,
- 476 other than the child of the provider, is present;
- 477 (k) public or private elementary or secondary school buildings and educational
- 478 facilities or the property on which those facilities are located;
- 479 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
- 480 religious organization when used solely by the organization members or their guests or
- 481 families;
- 482 (m) any facility rented or leased for private functions from which the general public is
- 483 excluded and arrangements for the function are under the control of the function sponsor;
- 484 (n) any workplace that is not a place of public access or a publicly owned building or
- 485 office but has one or more employees who are not owner-operators of the business;
- 486 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
- 487 stating "no smoking", "thank you for not smoking", or similar statement; and
- 488 (p) a holder of a bar establishment license, as defined in Section [32B-1-102](#).



489 (4) "Publicly owned building or office" means any enclosed indoor place or portion of  
490 a place owned, leased, or rented by any state, county, or municipal government, or by any  
491 agency supported by appropriation of, or by contracts or grants from, funds derived from the  
492 collection of federal, state, county, or municipal taxes.

493 (5) "Shisha" means any product that:

494 (a) contains tobacco or nicotine; and

495 (b) is smoked or intended to be smoked in a hookah or water pipe.

496 (6) "Smoking" means:

497 (a) the possession of any lighted or heated tobacco product in any form;

498 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe,  
499 or hookah that contains:

500 (i) tobacco or any plant product intended for inhalation;

501 (ii) shisha or non-tobacco shisha;

502 (iii) nicotine;

503 (iv) a natural or synthetic tobacco substitute; or

504 (v) a natural or synthetic flavored tobacco product;

505 (c) using an [~~e-cigarette~~] electronic cigarette; or

506 (d) using an oral smoking device intended to circumvent the prohibition of smoking in  
507 this chapter.

508 Section 7. Section **26-57-101** is amended to read:

509 **CHAPTER 57. ELECTRONIC CIGARETTE AND NICOTINE PRODUCT**  
510 **REGULATION ACT**

511 **26-57-101. Title.**

512 This chapter is known as the "Electronic Cigarette and Nicotine Product Regulation  
513 Act."

514 Section 8. Section **26-57-102** is amended to read:

515 **26-57-102. Definitions.**

516 As used in this chapter:

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

518 (2) "Electronic cigarette" means the same as that term is defined in Section  
519 [~~59-14-802~~] [76-10-101](#).

520 (3) "Electronic cigarette product" means [~~an electronic cigarette or an electronic~~  
521 ~~cigarette substance.~~] the same as that term is defined in Section 76-10-101.

522 (4) "Electronic cigarette substance" means the same as that term is defined in Section  
523 [~~59-14-802~~] 76-10-101.

524 (5) "Local health department" means the same as that term is defined in Section  
525 26A-1-102.

526 [~~(5)~~] (6) "Manufacture" includes:

527 (a) to cast, construct, or make electronic cigarettes; or

528 (b) to blend, make, process, or prepare an electronic cigarette substance.

529 [~~(6)~~] (7) "Manufacturer sealed electronic cigarette substance" means an electronic  
530 cigarette substance that is sold in a container that:

531 (a) is [~~pre-filled~~] prefilled by the electronic cigarette substance manufacturer; and

532 (b) the electronic cigarette manufacturer does not intend for a consumer to open.

533 (8) "Nicotine" means the same as that term is defined in Section 76-10-101.

534 (9) "Nicotine product" means the same as that term is defined in Section 76-10-101.

535 Section 9. Section **26-57-104** is enacted to read:

536 **26-57-104. Labeling of nicotine products containing nicotine.**

537 (1) Any nicotine product shall contain the statement described in Subsection (2) if the  
538 nicotine product:

539 (a) (i) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal  
540 regulations; or

541 (ii) is not otherwise required under federal or state law to contain a nicotine warning;  
542 and

543 (b) contains nicotine.

544 (2) A statement shall appear on the exterior packaging of a nicotine product described  
545 in Subsection (1) as follows:

546 "This product contains nicotine."

547 Section 10. Section **26-62-101** is amended to read:

548 **CHAPTER 62. TOBACCO, ELECTRONIC CIGARETTE, AND NICOTINE**  
549 **PRODUCT RETAIL PERMIT**

550 **26-62-101. Title.**

551 This chapter is known as "Tobacco, Electronic Cigarette, and Nicotine Product Retail  
552 Permit."

553 Section 11. Section **26-62-102** is amended to read:

554 **26-62-102. Definitions.**

555 As used in this chapter:

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

557 (a) as it relates to a municipality, in Section [10-8-41.6](#); and

558 (b) as it relates to a county, in Section [17-50-333](#).

559 (2) "Electronic cigarette product" means the same as that term is defined in Section  
560 [76-10-101](#).

561 [~~2~~] (3) "Employee" means an employee of a tobacco retailer.

562 [~~3~~] (4) "Enforcing agency" means the state Department of Health, or any local health  
563 department enforcing the provisions of this chapter.

564 [~~4~~] (5) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco  
565 specialty business.

566 [~~5~~] (6) "Local health department" means the same as that term is defined in Section  
567 [26A-1-102](#).

568 (7) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).

569 [~~6~~] (8) "Permit" means a tobacco retail permit issued under this chapter.

570 [~~7~~] (9) "Retail tobacco specialty business" means the same as that term is defined:

571 (a) as it relates to a municipality, in Section [10-8-41.6](#); and

572 (b) as it relates to a county, in Section [17-50-333](#).

573 [~~8~~] (10) "Tax commission license" means a license issued by the State Tax  
574 Commission under:

575 (a) Section [59-14-201](#) to sell [~~cigarettes~~] a cigarette at retail;

576 (b) Section [59-14-301](#) to sell [~~tobacco products~~] a tobacco product at retail; or

577 (c) Section [59-14-803](#) to sell an electronic cigarette product or a nicotine product.

578 [~~9~~] (11) "Tobacco product" means[~~;~~] the same as that term is defined in Section  
579 [76-10-101](#).

580 [~~(a) a cigar, cigarette, or electronic cigarette as those terms are defined in Section~~  
581 [76-10-101](#);

582 [~~(b) a tobacco product as that term is defined in Section 59-14-102, including:~~  
583 [~~(i) chewing tobacco; or~~  
584 [~~(ii) any substitute for a tobacco product, including flavoring or additives to tobacco;~~  
585 ~~or]~~

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

587 [~~(10)~~] (12) "Tobacco retailer" means a person that is required to obtain a tax  
588 commission license.

589 Section 12. Section 26-62-201 is amended to read:

590 **26-62-201. Permitting requirement.**

591 (1) (a) [~~Beginning July 1, 2018, a~~] A tobacco retailer shall hold a valid tobacco retail  
592 permit issued in accordance with this chapter by the local health department with jurisdiction  
593 over the physical location where the tobacco retailer operates.

594 (b) A tobacco retailer without a valid permit may not:

595 (i) place [~~tobacco products~~] a tobacco product, an electronic cigarette product, or a  
596 nicotine product in public view;

597 (ii) display any advertisement related to [~~tobacco products~~] a tobacco product, an  
598 electronic cigarette product, or a nicotine product that promotes the sale, distribution, or use of  
599 those products; or

600 (iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco [~~or~~  
601 ~~tobacco products~~], a tobacco product, an electronic cigarette product, or a nicotine product.

602 (2) A local health department may issue a permit under this chapter for a tobacco  
603 retailer in the classification of:

604 (a) a general tobacco retailer; or

605 (b) a retail tobacco specialty business.

606 (3) A permit under this chapter is:

607 (a) valid only for one physical location, including a vending machine;

608 (b) valid only at one fixed business address; and

609 (c) if multiple tobacco retailers are at the same address, separately required for each  
610 tobacco retailer.

611 [~~(4) Notwithstanding the requirement in Subsection (1), a person that holds a tax~~  
612 ~~commission license that was valid on July 1, 2018:]~~

613 ~~[(a) may operate without a permit under this chapter until December 31, 2018; and]~~  
614 ~~[(b) shall obtain a permit from a local health department under this chapter before]~~  
615 ~~January 1, 2019.]~~

616 Section 13. Section **26-62-202** is amended to read:

617 **26-62-202. Permit application.**

618 (1) A local health department shall issue a permit under this chapter for a tobacco  
619 retailer if the local health department determines that the applicant:

620 (a) accurately provided all information required under Subsection (3) and, if applicable,  
621 Subsection (4); and

622 (b) meets all requirements for a permit under this chapter.

623 (2) An applicant for a permit shall:

624 (a) submit an application described in Subsection (3) to the local health department  
625 with jurisdiction over the area where the tobacco retailer is located; and

626 (b) pay all applicable fees described in Section [26-62-203](#).

627 (3) The application for a permit shall include:

628 (a) the name, address, and telephone number of each proprietor;

629 (b) the name and mailing address of each proprietor authorized to receive  
630 permit-related communication and notices;

631 (c) the business name, address, and telephone number of the single, fixed location for  
632 which a permit is sought;

633 (d) evidence that the location for which a permit is sought has a valid tax commission  
634 license;

635 (e) information regarding whether, in the past 24 months, any proprietor of the tobacco  
636 retailer has been determined to have violated, or has been a proprietor at a location that has  
637 been determined to have violated:

638 (i) a provision of this chapter;

639 (ii) Chapter 38, Utah Indoor Clean Air Act;

640 (iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical  
641 Solvents;

642 (iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

643 (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco

644 issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or  
645 (vi) any other provision of state law or local ordinance regarding the sale, marketing, or  
646 distribution of [~~tobacco products~~] a tobacco product, an electronic cigarette product, or a  
647 nicotine product; and

648 (f) the dates of all violations disclosed under this Subsection (3).

649 (4) (a) In addition to the information described in Subsection (3), an applicant for a  
650 retail tobacco specialty business permit shall include evidence showing whether the business is  
651 located within:

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

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

654 (iii) 600 feet of property used or zoned for agricultural or residential use.

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

659 (5) The department or a local health department may not deny a permit to a retail  
660 tobacco specialty business under Subsection (4) if the retail tobacco specialty business obtained  
661 a license to operate the retail tobacco specialty business before December 31, 2015, from:

662 (a) a municipality under Section 10-8-41.6; or

663 (b) a county under Section 17-50-333.

664 (6) (a) The department shall establish by rule made in accordance with Title 63G,  
665 Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments  
666 in accordance with this chapter.

667 (b) The permit process established by the department under Subsection (6)(a) may not  
668 require any information in an application that is not required by this section.

669 Section 14. Section 26-62-205 (Effective 07/01/20) is amended to read:

670 **26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty**  
671 **business.**

672 A retail tobacco specialty business shall:

673 (1) except as provided in Subsection 76-10-105.1(4), prohibit any individual from  
674 entering the business if the individual is[?] younger than 21 years old; and

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

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

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

679 Section 15. Section **26-62-206** is enacted to read:

680 **26-62-206. Requirements for the sale of tobacco product, electronic cigarette**  
681 **product, or nicotine product.**

682 (1) A tobacco retailer shall:

683 (a) provide the customer with an itemized receipt for each sale of a tobacco product, an  
684 electronic cigarette product, or a nicotine product that separately identifies:

685 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine  
686 product;

687 (ii) the amount charged for each tobacco product, electronic cigarette product, or  
688 nicotine product; and

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

690 (b) maintain an itemized transaction log that separately identifies, for each sale of a  
691 tobacco product, an electronic cigarette product, or a nicotine product:

692 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine  
693 product;

694 (ii) the amount charged for each tobacco product, electronic cigarette product, or  
695 nicotine product; and

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

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

698 (a) maintained for at least one year from the date of each transaction in the itemized  
699 transaction log; and

700 (b) made available to an enforcing agency or a peace officer at the request of the  
701 enforcing agency or the peace officer.

702 Section 16. Section **26-62-301** is amended to read:

703 **26-62-301. Permit violation.**

704 A person is in violation of the permit issued under this chapter if the person violates:

705 (1) a provision of this chapter;

- 706 (2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;
- 707 (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic
- 708 Chemical Solvents;
- 709 (4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 710 (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco
- 711 issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
- 712 (6) any other provision of state law or local ordinance regarding the sale, marketing, or
- 713 distribution of ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a
- 714 nicotine product.

715 Section 17. Section 26-62-304 (Effective 07/01/20) is amended to read:

716 **26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

717 (1) At a civil hearing conducted under Section 26-62-302, evidence of the final

718 criminal conviction of a tobacco retailer or employee for violation of Section 76-10-104 at the

719 same location and within the same time period as the location and time period alleged in the

720 civil hearing for violation of this chapter for sale of ~~[tobacco products]~~ a tobacco product, an

721 electronic cigarette product, or a nicotine product to an individual under ~~[the following ages]~~

722 21 years old is prima facie evidence of a violation of this chapter[:].

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

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

725 (2) If the tobacco retailer is convicted of violating Section 76-10-104, the enforcing

726 agency:

727 (a) may not assess an additional monetary penalty under this chapter for the same

728 offense for which the conviction was obtained; and

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

730 Section 18. Section 26-62-305 (Effective 07/01/20) is amended to read:

731 **26-62-305 (Effective 07/01/20). Penalties.**

732 (1) (a) If, following an inspection by an enforcing agency, or an investigation or

733 issuance of a citation or information under Section 77-39-101, an enforcing agency determines

734 that a person has violated the terms of a permit issued under this chapter, the enforcing agency

735 may impose the penalties described in this section.

736 (b) If multiple violations are found in a single inspection or investigation, only one



737 violation shall count toward the penalties described in this section.

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

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

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

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

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

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

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

750 (b) in addition to a monetary penalty imposed under Subsection (2), suspend the permit  
751 if the violation is due to a sale of ~~[tobacco products]~~ a tobacco product, an electronic cigarette  
752 product, or a nicotine product to an individual under~~[:]~~ 21 years old; and

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

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

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

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

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

760 or

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

764 (b) A person whose permit:

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

768 (ii) is revoked may not apply for a new permit for any tobacco retailer for a period of  
769 24 months after the day on which an enforcing agency revokes the permit.

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

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

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

776 Section 19. Section 26-62-306 is amended to read:

777 **26-62-306. Recognition of tobacco retailer training program.**

778 (1) In determining the amount of the monetary penalty to be imposed for an employee's  
779 violation of this chapter, a hearing officer shall reduce the civil penalty by at least 50% if the  
780 hearing officer determines that:

781 (a) the tobacco retailer has implemented a documented employee training program; and

782 (b) the employees have completed that training program within 30 days after the day on  
783 which each employee commences the duties of selling [~~tobacco products~~] a tobacco product, an  
784 electronic cigarette product, or a nicotine product.

785 (2) (a) For the first offense at a location, if the hearing officer determines under  
786 Subsection (1) that the tobacco retailer licensee has not implemented a documented training  
787 program with a written curriculum for employees at that location regarding compliance with  
788 this chapter, the hearing officer may suspend all or a portion of the penalty if:

789 (i) the tobacco retailer agrees to initiate a training program for employees at that  
790 location; and

791 (ii) the training program begins within 30 days after the hearing officer makes a  
792 determination under this Subsection (2)(a).

793 (b) If the hearing officer determines at a subsequent hearing that the tobacco retailer  
794 has not implemented the training program within the time period required under Subsection  
795 (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty, unless the  
796 tobacco retailer demonstrates good cause for an extension of time for implementation of the  
797 training program.

798 Section 20. Section 26A-1-128 is amended to read:

799           **26A-1-128. Tobacco, electronic cigarette, and nicotine product permits --**  
800 **Enforcement.**

801           A local health department:

802           (1) shall enforce the requirements of Title 26, Chapter 62, Tobacco, Electronic  
803 Cigarette, and Nicotine Product Retail Permit;

804           (2) may enforce licensing requirements for entities that hold a business license to sell  
805 [~~tobacco products~~] a tobacco product, an electronic cigarette product, or a nicotine product  
806 under Section 10-8-41.6 or Section 17-50-333; and

807           (3) may recommend to a municipality or county that the business license of a retail  
808 tobacco specialty business be suspended or revoked for a violation of Section 10-8-41.6,  
809 Section 17-50-333, or Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine  
810 Product Retail Permit.

811           Section 21. Section 51-9-203 (Effective 07/01/20) is amended to read:

812           **51-9-203 (Effective 07/01/20). Requirements for tobacco programs.**

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

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

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

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

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

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

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

828           (C) if directed toward youth:

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

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

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

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

834 (iv) for enforcement, control, and compliance program, the request shall demonstrate  
835 that the proposed program can reasonably be expected to reduce the extent to which tobacco  
836 products are available to individuals under ~~[the following ages:]~~ 21 years old;  
837 ~~[(A) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~  
838 ~~[(B) beginning July 1, 2021, 21 years old;]~~

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

841 (i) the amount funded;

842 (ii) the amount expended;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 871 (a) repay the state as provided in Subsection (1)(d); and
- 872 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.

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

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

877 Section 22. Section **53-3-229** is amended to read:

878 **53-3-229. Prohibited uses of license certificate -- Penalty.**

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

- 880 (a) lend or knowingly permit the use of a license certificate issued to the [~~person~~]  
881 individual, by [~~a person~~] an individual not entitled to it;
- 882 (b) display or to represent as the [~~person's~~] individual's own a license certificate not  
883 issued to the [~~person~~] individual;
- 884 (c) refuse to surrender to the division or a peace officer upon demand any license  
885 certificate issued by the division;
- 886 (d) use a false name or give a false address in any application for a license or any  
887 renewal or duplicate of the license certificate, or to knowingly make a false statement, or to  
888 knowingly conceal a material fact or otherwise commit a fraud in the application;
- 889 (e) display a canceled, denied, revoked, suspended, or disqualified driver license  
890 certificate as a valid driver license certificate;

891 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic

892 driver license certificate issued by a governmental entity if the item is not an authentic driver  
893 license certificate issued by that governmental entity; or

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

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

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

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

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

903 (c) acquire, use, display, or transfer a false or altered driver license certificate to  
904 procure:

905 (i) a cigarette;

906 (ii) an electronic cigarette product, as defined in Section 76-10-101;

907 (iii) tobacco; or

908 (iv) a tobacco product.

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

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

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

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

918 Section 23. Section 53-3-810 is amended to read:

919 **53-3-810. Prohibited uses of identification card -- Penalties.**

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

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

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

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

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

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

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

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

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

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

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

941 (c) acquire, use, display, or transfer a false or altered identification card to procure:

942 (i) a cigarette;

943 (ii) an electronic cigarette[;] product as defined in Section 76-10-101;

944 (iii) tobacco; or

945 (iv) a tobacco product.

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

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

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

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

955 Section 24. Section **53G-4-402** is amended to read:

956 **53G-4-402. Powers and duties generally.**

957 (1) A local school board shall:

958 (a) implement the core standards for Utah public schools using instructional materials  
959 that best correlate to the core standards for Utah public schools and graduation requirements;

960 (b) administer tests, required by the state board, which measure the progress of each  
961 student, and coordinate with the state superintendent and state board to assess results and create  
962 plans to improve the student's progress, which shall be submitted to the state board for  
963 approval;

964 (c) use progress-based assessments as part of a plan to identify schools, teachers, and  
965 students that need remediation and determine the type and amount of federal, state, and local  
966 resources to implement remediation;

967 (d) develop early warning systems for students or classes failing to make progress;

968 (e) work with the state board to establish a library of documented best practices,  
969 consistent with state and federal regulations, for use by the local districts;

970 (f) implement training programs for school administrators, including basic  
971 management training, best practices in instructional methods, budget training, staff  
972 management, managing for learning results and continuous improvement, and how to help  
973 every child achieve optimal learning in basic academic subjects; and

974 (g) ensure that the local school board meets the data collection and reporting standards  
975 described in Section [53E-3-501](#).

976 (2) Local school boards shall spend Minimum School Program funds for programs and  
977 activities for which the state board has established minimum standards or rules under Section  
978 [53E-3-501](#).

979 (3) (a) A local school board may purchase, sell, and make improvements on school  
980 sites, buildings, and equipment and construct, erect, and furnish school buildings.

981 (b) School sites or buildings may only be conveyed or sold on local school board  
982 resolution affirmed by at least two-thirds of the members.

983 (4) (a) A local school board may participate in the joint construction or operation of a  
984 school attended by children residing within the district and children residing in other districts



985 either within or outside the state.

986 (b) Any agreement for the joint operation or construction of a school shall:

987 (i) be signed by the president of the local school board of each participating district;

988 (ii) include a mutually agreed upon pro rata cost; and

989 (iii) be filed with the state board.

990 (5) A local school board may establish, locate, and maintain elementary, secondary,  
991 and applied technology schools.

992 (6) Except as provided in Section 53E-3-905, a local school board may enroll children  
993 in school who are at least five years of age before September 2 of the year in which admission  
994 is sought.

995 (7) A local school board may establish and support school libraries.

996 (8) A local school board may collect damages for the loss, injury, or destruction of  
997 school property.

998 (9) A local school board may authorize guidance and counseling services for children  
999 and their parents before, during, or following enrollment of the children in schools.

1000 (10) (a) A local school board shall administer and implement federal educational  
1001 programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National  
1002 Education Programs.

1003 (b) Federal funds are not considered funds within the school district budget under  
1004 Chapter 7, Part 3, Budgets.

1005 (11) (a) A local school board may organize school safety patrols and adopt policies  
1006 under which the patrols promote student safety.

1007 (b) A student appointed to a safety patrol shall be at least 10 years old and have written  
1008 parental consent for the appointment.

1009 (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion  
1010 of a highway intended for vehicular traffic use.

1011 (d) Liability may not attach to a school district, its employees, officers, or agents or to a  
1012 safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting  
1013 the program by virtue of the organization, maintenance, or operation of a school safety patrol.

1014 (12) (a) A local school board may on its own behalf, or on behalf of an educational  
1015 institution for which the local school board is the direct governing body, accept private grants,

1016 loans, gifts, endowments, devises, or bequests that are made for educational purposes.

1017 (b) These contributions are not subject to appropriation by the Legislature.

1018 (13) (a) A local school board may appoint and fix the compensation of a compliance  
1019 officer to issue citations for violations of Subsection [76-10-105\(2\)\(b\)](#).

1020 (b) A person may not be appointed to serve as a compliance officer without the  
1021 person's consent.

1022 (c) A teacher or student may not be appointed as a compliance officer.

1023 (14) A local school board shall adopt bylaws and policies for the local school board's  
1024 own procedures.

1025 (15) (a) A local school board shall make and enforce policies necessary for the control  
1026 and management of the district schools.

1027 (b) Local school board policies shall be in writing, filed, and referenced for public  
1028 access.

1029 (16) A local school board may hold school on legal holidays other than Sundays.

1030 (17) (a) A local school board shall establish for each school year a school traffic safety  
1031 committee to implement this Subsection (17).

1032 (b) The committee shall be composed of one representative of:

1033 (i) the schools within the district;

1034 (ii) the Parent Teachers' Association of the schools within the district;

1035 (iii) the municipality or county;

1036 (iv) state or local law enforcement; and

1037 (v) state or local traffic safety engineering.

1038 (c) The committee shall:

1039 (i) receive suggestions from school community councils, parents, teachers, and others  
1040 and recommend school traffic safety improvements, boundary changes to enhance safety, and  
1041 school traffic safety program measures;

1042 (ii) review and submit annually to the Department of Transportation and affected  
1043 municipalities and counties a child access routing plan for each elementary, middle, and junior  
1044 high school within the district;

1045 (iii) consult the Utah Safety Council and the Division of Family Health Services and  
1046 provide training to all school children in kindergarten through grade 6, within the district, on

1047 school crossing safety and use; and

1048 (iv) help ensure the district's compliance with rules made by the Department of  
1049 Transportation under Section 41-6a-303.

1050 (d) The committee may establish subcommittees as needed to assist in accomplishing  
1051 its duties under Subsection (17)(c).

1052 (18) (a) A local school board shall adopt and implement a comprehensive emergency  
1053 response plan to prevent and combat violence in the local school board's public schools, on  
1054 school grounds, on its school vehicles, and in connection with school-related activities or  
1055 events.

1056 (b) The plan shall:

1057 (i) include prevention, intervention, and response components;

1058 (ii) be consistent with the student conduct and discipline policies required for school  
1059 districts under Chapter 11, Part 2, Miscellaneous Requirements;

1060 (iii) require professional learning for all district and school building staff on what their  
1061 roles are in the emergency response plan;

1062 (iv) provide for coordination with local law enforcement and other public safety  
1063 representatives in preventing, intervening, and responding to violence in the areas and activities  
1064 referred to in Subsection (18)(a); and

1065 (v) include procedures to notify a student, to the extent practicable, who is off campus  
1066 at the time of a school violence emergency because the student is:

1067 (A) participating in a school-related activity; or

1068 (B) excused from school for a period of time during the regular school day to  
1069 participate in religious instruction at the request of the student's parent.

1070 (c) The state board, through the state superintendent, shall develop comprehensive  
1071 emergency response plan models that local school boards may use, where appropriate, to  
1072 comply with Subsection (18)(a).

1073 (d) A local school board shall, by July 1 of each year, certify to the state board that its  
1074 plan has been practiced at the school level and presented to and reviewed by its teachers,  
1075 administrators, students, and their parents and local law enforcement and public safety  
1076 representatives.

1077 (19) (a) A local school board may adopt an emergency response plan for the treatment

1078 of sports-related injuries that occur during school sports practices and events.

1079 (b) The plan may be implemented by each secondary school in the district that has a  
1080 sports program for students.

1081 (c) The plan may:

1082 (i) include emergency personnel, emergency communication, and emergency  
1083 equipment components;

1084 (ii) require professional learning on the emergency response plan for school personnel  
1085 who are involved in sports programs in the district's secondary schools; and

1086 (iii) provide for coordination with individuals and agency representatives who:

1087 (A) are not employees of the school district; and

1088 (B) would be involved in providing emergency services to students injured while  
1089 participating in sports events.

1090 (d) The local school board, in collaboration with the schools referred to in Subsection  
1091 (19)(b), may review the plan each year and make revisions when required to improve or  
1092 enhance the plan.

1093 (e) The state board, through the state superintendent, shall provide local school boards  
1094 with an emergency plan response model that local school boards may use to comply with the  
1095 requirements of this Subsection (19).

1096 (20) A local school board shall do all other things necessary for the maintenance,  
1097 prosperity, and success of the schools and the promotion of education.

1098 (21) (a) Before closing a school or changing the boundaries of a school, a local school  
1099 board shall:

1100 (i) at least 120 days before approving the school closure or school boundary change,  
1101 provide notice to the following that the local school board is considering the closure or  
1102 boundary change:

1103 (A) parents of students enrolled in the school, using the same form of communication  
1104 the local school board regularly uses to communicate with parents;

1105 (B) parents of students enrolled in other schools within the school district that may be  
1106 affected by the closure or boundary change, using the same form of communication the local  
1107 school board regularly uses to communicate with parents; and

1108 (C) the governing council and the mayor of the municipality in which the school is

1109 located;

1110 (ii) provide an opportunity for public comment on the proposed school closure or  
1111 school boundary change during at least two public local school board meetings; and

1112 (iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of  
1113 the public hearing as described in Subsection (21)(b).

1114 (b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

1115 (i) indicate the:

1116 (A) school or schools under consideration for closure or boundary change; and

1117 (B) the date, time, and location of the public hearing;

1118 (ii) at least 10 days before the public hearing, be:

1119 (A) published:

1120 (I) in a newspaper of general circulation in the area; and

1121 (II) on the Utah Public Notice Website created in Section 63F-1-701; and

1122 (B) posted in at least three public locations within the municipality in which the school  
1123 is located on the school district's official website, and prominently at the school; and

1124 (iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be  
1125 provided as described in Subsections (21)(a)(i)(A), (B), and (C).

1126 (22) A local school board may implement a facility energy efficiency program  
1127 established under Title 11, Chapter 44, Performance Efficiency Act.

1128 (23) A local school board may establish or partner with a certified youth court  
1129 program, in accordance with Section 78A-6-1203, or establish or partner with a comparable  
1130 restorative justice program, in coordination with schools in that district. A school may refer a  
1131 student to youth court or a comparable restorative justice program in accordance with Section  
1132 53G-8-211.

1133 Section 25. Section 53G-8-209 is amended to read:

1134 **53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of**  
1135 **violations -- Limitation of liability.**

1136 (1) The Legislature recognizes that:

1137 (a) participation in student government and extracurricular activities may confer  
1138 important educational and lifetime benefits upon students, and encourages school districts and  
1139 charter schools to provide a variety of opportunities for all students to participate in such

1140 activities in meaningful ways;

1141 (b) there is no constitutional right to participate in these types of activities, and does  
1142 not through this section or any other provision of law create such a right;

1143 (c) students who participate in student government and extracurricular activities,  
1144 particularly competitive athletics, and the adult coaches, advisors, and assistants who direct  
1145 those activities, become role models for others in the school and community;

1146 (d) these individuals often play major roles in establishing standards of acceptable  
1147 behavior in the school and community, and establishing and maintaining the reputation of the  
1148 school and the level of community confidence and support afforded the school; and

1149 (e) it is of the utmost importance that those involved in student government, whether as  
1150 officers or advisors, and those involved in competitive athletics and related activities, whether  
1151 students or staff, comply with all applicable laws and standards of behavior and conduct  
1152 themselves at all times in a manner befitting their positions and responsibilities.

1153 (2) (a) The state board may, and local school boards and charter school governing  
1154 boards shall, adopt rules or policies implementing this section that apply to both students and  
1155 staff.

1156 (b) The rules or policies described in Subsection (2)(a) shall include prohibitions  
1157 against the following types of conduct in accordance with Section 53G-8-211, while in the  
1158 classroom, on school property, during school sponsored activities, or regardless of the location  
1159 or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i)  
1160 through (iv):

1161 (i) use of foul, abusive, or profane language while engaged in school related activities;

1162 (ii) illicit use, possession, or distribution of controlled substances or drug  
1163 paraphernalia, and the use, possession, or distribution of an electronic cigarette product as  
1164 defined in Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and

1165 (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including  
1166 behavior involving physical violence, restraint, improper touching, or inappropriate exposure  
1167 of body parts not normally exposed in public settings, forced ingestion of any substance, or any  
1168 act which would constitute a crime against a person or public order under [Utah] state law.

1169 (3) (a) School employees who reasonably believe that a violation of this section may  
1170 have occurred shall immediately report that belief to the school principal, district

1171 superintendent, or chief administrative officer of a charter school.

1172 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the  
1173 alleged incident, and actions taken in response, to the district superintendent or the  
1174 superintendent's designee within 10 working days after receipt of the report.

1175 (c) Failure of a person holding a professional certificate to report as required under this  
1176 Subsection (3) constitutes an unprofessional practice.

1177 (4) Limitations of liability set forth under Section 53G-8-405 apply to this section.  
1178 Section 26. Section 59-14-102 is amended to read:

1179 **59-14-102. Definitions.**

1180 As used in this chapter:

1181 (1) "Alternative nicotine product" means the same as that term is defined in Section  
1182 76-10-101.

1183 ~~[(1)]~~ (2) "Cigarette" means a roll for smoking made wholly or in part of tobacco:

1184 (a) regardless of:

1185 (i) the size of the roll;

1186 (ii) the shape of the roll; or

1187 (iii) whether the tobacco is ~~[(A)]~~ flavored ~~[(B)]~~, adulterated ~~[(C)]~~, or mixed with  
1188 any other ingredient; and

1189 (b) if the wrapper or cover of the roll is made of paper or any other substance or  
1190 material except tobacco.

1191 ~~[(2)]~~ (3) "Cigarette rolling machine" means a device or machine that has the capability  
1192 to produce at least 150 cigarettes in less than 30 minutes.

1193 ~~[(3)]~~ (4) "Cigarette rolling machine operator" means a person who:

1194 (a) (i) controls, leases, owns, possesses, or otherwise has available for use a cigarette  
1195 rolling machine; and

1196 (ii) makes the cigarette rolling machine available for use by another person to produce  
1197 a cigarette; or

1198 (b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.

1199 ~~[(4)]~~ (5) "Consumer" means a person that is not required:

1200 (a) under Section 59-14-201 to obtain a license under Section 59-14-202; ~~[(or)]~~

1201 (b) under Section 59-14-301 to obtain a license under Section 59-14-202 ~~[(or)]~~ or

1202 (c) to obtain a license under Section 59-14-803.

1203 [~~5~~] (6) "Counterfeit cigarette" means:

1204 (a) a cigarette that has a false manufacturing label; or

1205 (b) a package of cigarettes bearing a counterfeit tax stamp.

1206 (7) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

1207 (8) "Electronic cigarette product" means the same as that term is defined in Section

1208 76-10-101.

1209 (9) "Electronic cigarette substance" means the same as that term is defined in Section

1210 76-10-101.

1211 [~~6~~] (10) "Importer" means a person [~~who~~] that imports into the United States, either  
1212 directly or indirectly, a finished cigarette for sale or distribution.

1213 [~~7~~] (11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity,  
1214 or any other person doing business as a distributor or retailer of cigarettes on tribal lands  
1215 located in the state.

1216 [~~8~~] (12) "Little cigar" means a roll for smoking that:

1217 (a) is made wholly or in part of tobacco;

1218 (b) [~~that~~] uses an integrated cellulose acetate filter or other similar filter; and

1219 (c) [~~that~~] is wrapped in a substance:

1220 (i) containing tobacco; and

1221 (ii) that is not exclusively natural leaf tobacco.

1222 [~~9~~] (13) (a) Except as provided in Subsection [~~9~~] (13)(b), "manufacturer" means a  
1223 person [~~who~~] that:

1224 (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette[~~;~~]; or

1225 (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels,

1226 repackages, relabels, or imports an electronic cigarette product or a nicotine product.

1227 (b) "Manufacturer" does not include a cigarette rolling machine operator.

1228 [~~10~~] (14) "Moist snuff" means tobacco that:

1229 (a) is finely[~~-(i)-~~] cut[~~-(ii)-~~], ground[~~-(iii)-~~], or powdered;

1230 (b) has at least 45% moisture content, as determined by the commission by rule made  
1231 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1232 (c) is not intended to be:



- 1233 (i) smoked; or
- 1234 (ii) placed in the nasal cavity; and
- 1235 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or
- 1236 distributed in single-use units, including:
  - 1237 (i) tablets;
  - 1238 (ii) lozenges;
  - 1239 (iii) strips;
  - 1240 (iv) sticks; or
  - 1241 (v) packages containing multiple single-use units.
- 1242 (15) "Nicotine" means the same as that term is defined in Section 76-10-101.
- 1243 (16) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 1244 (17) "Nontherapeutic nicotine device" means the same as that term is defined in
- 1245 Section 76-10-101.
- 1246 (18) "Nontherapeutic nicotine device substance" means the same as that term is defined
- 1247 in Section 76-10-101.
- 1248 (19) "Nontherapeutic nicotine product" means the same as that term is defined in
- 1249 Section 76-10-101.
- 1250 (20) "Prefilled electronic cigarette" means the same as that term is defined in Section
- 1251 76-10-101.
- 1252 (21) "Prefilled nontherapeutic nicotine device" means the same as that term is defined
- 1253 in Section 76-10-101.
- 1254 ~~[(11)]~~ (22) "Retailer" means a person that:
  - 1255 (a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product
  - 1256 to a consumer in the state; or
  - 1257 (b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine
  - 1258 product to a consumer in the state.
- 1259 ~~[(12)]~~ (23) "Stamp" means the indicia required to be placed on a cigarette package that
- 1260 evidences payment of the tax on cigarettes required by Section 59-14-205.
- 1261 ~~[(13)]~~ (24) (a) "Tobacco product" means a product made of, or containing, tobacco.
- 1262 (b) "Tobacco product" includes:
  - 1263 (i) a cigarette produced from a cigarette rolling machine;

1264 (ii) a little cigar; or

1265 (iii) moist snuff.

1266 (c) "Tobacco product" does not include a cigarette.

1267 [~~(14)~~] (25) "Tribal lands" means land held by the United States in trust for a federally  
1268 recognized Indian tribe.

1269 Section 27. Section **59-14-302** is amended to read:

1270 **59-14-302. Tax basis -- Rates.**

1271 (1) As used in this section:

1272 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco  
1273 product charges after subtracting a discount.

1274 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,  
1275 regardless of:

1276 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

1277 (ii) who pays the original Utah destination freight charge.

1278 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

1279 (3) (a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid  
1280 by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

1281 (b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling  
1282 machine shall be paid by the cigarette rolling machine operator.

1283 (4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced  
1284 from a cigarette rolling machine, the ~~[rate]~~ amount of the tax under this section is .86  
1285 multiplied by the manufacturer's sales price.

1286 (5) (a) Subject to Subsection (5)(b), the tax under this section on moist snuff is  
1287 imposed:

1288 (i) at a rate of \$1.83 per ounce; and

1289 (ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.

1290 (b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce,  
1291 a proportionate amount of the tax described in Subsection (5)(a) is imposed:

1292 (i) on that fractional part of one ounce; and

1293 (ii) in accordance with rules made by the commission in accordance with Title 63G,  
1294 Chapter 3, Utah Administrative Rulemaking Act.

1295 (6) (a) A little cigar is taxed at the same tax rates as a cigarette is taxed under  
1296 Subsection 59-14-204(2).

1297 (b) (i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling  
1298 machine is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

1299 (ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced  
1300 from the cigarette rolling machine.

1301 (7) (a) Moisture content of a tobacco product is determined at the time of packaging.

1302 (b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

1303 (i) for a period of three years after the last day on which the manufacturer distributes  
1304 the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of  
1305 the tobacco product available for review by the commission, upon demand; and

1306 (ii) provide a document, to the person described in Subsection (3) to whom the  
1307 manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco  
1308 product, as verified by the scientific evidence described in Subsection (7)(b)(i).

1309 (c) A manufacturer who fails to comply with the requirements of Subsection (7)(b) is  
1310 liable for the nonpayment or underpayment of taxes on the tobacco product by a person who  
1311 relies, in good faith, on the document described in Subsection (7)(b)(ii).

1312 (d) A person described in Subsection (3) who is required to pay tax on a tobacco  
1313 product:

1314 (i) shall, for a period of three years after the last day on which the person pays the tax  
1315 on the tobacco product, keep the document described in Subsection (7)(b)(ii) available for  
1316 review by the commission, upon demand; and

1317 (ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due  
1318 to the person's good faith reliance on the document described in Subsection (7)(b)(ii).

1319 Section 28. Section 59-14-703 (Effective 07/01/20) is amended to read:

1320 **59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine**  
1321 **operators -- Renewal of certification -- Requirements for certification or renewal of**  
1322 **certification -- Denial.**

1323 (1) A cigarette rolling machine operator may not perform the following without first  
1324 obtaining certification from the commission as provided in this part:

1325 (a) locate a cigarette rolling machine within this state;

1326 (b) make or offer to make a cigarette rolling machine available for use within this state;

1327 or

1328 (c) offer a cigarette for sale within this state if the cigarette is produced by:

1329 (i) the cigarette rolling machine operator; or

1330 (ii) another person at the location of the cigarette rolling machine operator's cigarette  
1331 rolling machine.

1332 (2) A cigarette rolling machine operator shall renew its certification as provided in this  
1333 section.

1334 (3) The commission shall prescribe a form for certifying a cigarette rolling machine  
1335 operator under this part.

1336 (4) (a) A cigarette rolling machine operator shall apply to the commission for  
1337 certification before the cigarette rolling machine operator performs an act described in  
1338 Subsection (1) within the state for the first time.

1339 (b) A cigarette rolling machine operator shall apply to the commission for a renewal of  
1340 certification on or before the earlier of:

1341 (i) December 31 of each year; or

1342 (ii) the day on which there is a change in any of the information the cigarette rolling  
1343 machine operator provides on the form described in Subsection (3).

1344 (5) To obtain certification or renewal of certification under this section from the  
1345 commission, a cigarette rolling machine operator shall:

1346 (a) identify:

1347 (i) the cigarette rolling machine operator's name and address;

1348 (ii) the location, make, and brand of the cigarette rolling machine operator's cigarette  
1349 rolling machine; and

1350 (iii) each person from whom the cigarette rolling machine operator will purchase or be  
1351 provided tobacco products that the cigarette rolling machine operator will use to produce  
1352 cigarettes; and

1353 (b) certify, under penalty of perjury, that:

1354 (i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling  
1355 machine, regardless of the tobacco's label or description, shall be only of a:

1356 (A) brand family listed on the commission's directory listing required by Section

1357 ~~59-14-603~~; and

1358 (B) tobacco product manufacturer listed on the commission's directory listing required  
1359 by Section ~~59-14-603~~;

1360 (ii) the cigarette rolling machine operator shall prohibit another person who uses the  
1361 cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or  
1362 a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette  
1363 rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);

1364 (iii) the cigarette rolling machine operator holds a current license issued in accordance  
1365 with this chapter;

1366 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title  
1367 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection  
1368 Act;

1369 (v) the cigarette rolling machine shall be located in a separate and defined area where  
1370 the cigarette rolling machine operator ensures that an individual younger [~~than the age specified~~  
1371 ~~in Subsection (6)] 21 years old may not be:~~

1372 (A) present at any time; or

1373 (B) permitted to enter at any time; and

1374 (vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer,  
1375 or sell cigarettes produced from a cigarette rolling machine in a quantity of less than 20  
1376 cigarettes per retail transaction.

1377 [~~(6) For purposes of Subsection (5), an individual is younger than:~~]

1378 [~~(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1379 [~~(b) beginning July 1, 2021, 21 years old.]~~

1380 [~~(7)~~] (6) If the commission determines that a cigarette rolling machine operator meets  
1381 the requirements for certification or renewal of certification under this section, the commission  
1382 shall grant the certification or renewal of certification.

1383 [~~(8)~~] (7) If the commission determines that a cigarette rolling machine operator does  
1384 not meet the requirements for certification or renewal of certification under this section, the  
1385 commission shall:

1386 (a) deny the certification or renewal of certification; and

1387 (b) provide the cigarette rolling machine operator the grounds for denial of the

1388 certification or renewal of certification in writing.

1389 Section 29. Section **59-14-801** is amended to read:

1390 **Part 8. Electronic Cigarette and Nicotine Product Licensing and Taxation Act**

1391 **59-14-801. Title.**

1392 This part is known as the "Electronic Cigarette Product and Nicotine Product Licensing  
1393 and Taxation Act."

1394 Section 30. Section **59-14-802** is amended to read:

1395 **59-14-802. Definitions.**

1396 As used in this part:

1397 [~~(1) "Cigarette" means the same as that term is defined in Section 59-14-102.~~]

1398 [~~(2)(a) "Electronic cigarette" means:~~]

1399 [~~(i) an electronic device used to deliver or capable of delivering vapor containing  
1400 nicotine to an individual's respiratory system;~~]

1401 [~~(ii) a component of the device described in Subsection (2)(a)(i); or~~]

1402 [~~(iii) an accessory sold in the same package as the device described in Subsection  
1403 (2)(a)(i).~~]

1404 [~~(b) "Electronic cigarette" includes an e-cigarette as defined in Section 26-38-2.~~]

1405 [~~(3) "Electronic cigarette product" means an electronic cigarette or an electronic  
1406 cigarette substance.~~]

1407 [~~(4) "Electronic cigarette substance" means any substance, including liquid containing  
1408 nicotine, used or intended for use in an electronic cigarette.~~]

1409 [~~(5)~~] (1) "Licensee" means a person that holds a valid license to sell an electronic  
1410 cigarette [~~products~~] product or a nicotine product.

1411 [~~(6) "License to sell an electronic cigarette product" means a license issued by the  
1412 commission under Subsection 59-14-803(3).~~]

1413 (2) (a) "Manufacturer's sales price" means the amount that the manufacturer of an  
1414 electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a  
1415 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device charges  
1416 after subtracting a discount.

1417 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,  
1418 regardless of:

1419 (i) whether the electronic cigarette substance, prefilled electronic cigarette, alternative  
1420 nicotine product, nontherapeutic nicotine device substance, or prefilled nontherapeutic nicotine  
1421 device is shipped f.o.b. origin or f.o.b. destination; or

1422 (ii) who pays the original Utah destination freight charge.

1423 Section 31. Section **59-14-803** is amended to read:

1424 **59-14-803. License to sell electronic cigarette product or nicotine product.**

1425 (1) [~~Except as provided in Subsection (2), a~~] A person may not sell, offer to sell, or  
1426 distribute an electronic cigarette product [~~in Utah~~] or a nicotine product in this state without  
1427 first:

1428 (a) except as provided in Subsection (2), obtaining a license from the commission  
1429 under this section to sell an electronic cigarette product [from the commission under this  
1430 section.] or a nicotine product; and

1431 (b) complying with any bonding requirement described in Subsection (5).

1432 (2) A person that holds a valid license to sell cigarettes under Section **59-14-201**[;] or a  
1433 person that holds a valid license to sell tobacco products under Section **59-14-301**[;] may,  
1434 without obtaining a separate license [~~to sell an electronic cigarette product under this part,~~] in  
1435 accordance with this section, sell, offer to sell, or distribute an electronic cigarette product [~~in~~  
1436 ~~Utah in accordance with this part~~] or a nicotine product in this state.

1437 (3) The commission shall issue a license to sell an electronic cigarette product or a  
1438 nicotine product to a person that submits an application, on a form created by the commission,  
1439 that includes:

1440 (a) the person's name;

1441 (b) the address of the facility where the person will sell an electronic cigarette product  
1442 or a nicotine product; and

1443 (c) any other information the commission requires to implement this chapter.

1444 (4) A license described in Subsection (3) is:

1445 (a) valid only at one fixed business address;

1446 (b) valid for three years;

1447 (c) valid only for a physical location; and

1448 (d) renewable if a licensee meets the criteria for licensing described in Subsection (3).

1449 (5) (a) The commission shall require a manufacturer, jobber, distributor, wholesaler, or

1450 retailer that is responsible under this part for the collection of tax on an electronic cigarette  
1451 substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic  
1452 nicotine device substance, or a prefilled nontherapeutic nicotine device to post a bond.

1453 (b) The manufacturer, jobber, distributor, wholesaler, or retailer may post the bond  
1454 required by Subsection (5)(a) in combination with any bond required by Section [59-14-201](#) or  
1455 [59-14-301](#).

1456 (c) Subject to Subsection (5)(d), the commission shall determine the form and amount  
1457 of the bond.

1458 (d) The minimum amount of the bond shall be:

1459 (i) except as provided in Subsection (5)(d)(ii) or (iii), \$500;

1460 (ii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond  
1461 required by Subsection (5)(a) in combination with a bond required by either Section [59-14-201](#)  
1462 or [59-14-301](#), \$1,000; or

1463 (iii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond  
1464 required by Subsection (5)(a) in combination with a bond required by both Sections [59-14-201](#)  
1465 and [59-14-301](#), \$1,500.

1466 ~~[(5)]~~ (6) The commission may make rules in accordance with Title 63G, Chapter 3,  
1467 Utah Administrative Rulemaking Act, to establish the additional information described in  
1468 Subsection (3)(c) that a person ~~[must]~~ shall provide in the application described in Subsection  
1469 (3).

1470 ~~[(6)]~~ (7) It is a class B misdemeanor for a person to violate Subsection (1).

1471 ~~[(7)]~~ (8) The commission may not charge a fee for a license under this section.  
1472 Section 32. Section **59-14-804** is enacted to read:

1473 **59-14-804. Taxation of electronic cigarette substance, prefilled electronic**  
1474 **cigarette, alternative nicotine product, nontherapeutic nicotine device substance, and**  
1475 **prefilled nontherapeutic nicotine device.**

1476 (1) (a) Beginning on July 1, 2020, there is levied a tax upon the following:

1477 (i) an electronic cigarette substance; and

1478 (ii) a prefilled electronic cigarette.

1479 (b) Beginning on July 1, 2021, there is levied a tax upon the following:

1480 (i) an alternative nicotine product;



1481 (ii) a nontherapeutic nicotine device substance; and

1482 (iii) a prefilled nontherapeutic nicotine device.

1483 (2) The amount of tax levied under Subsection (1) is .86 multiplied by the  
1484 manufacturer's sales price.

1485 (3) (a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall  
1486 pay the tax levied under Subsection (1) at the time that an electronic cigarette substance, a  
1487 prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device  
1488 substance, or a prefilled nontherapeutic nicotine device is first received in the state.

1489 (b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not  
1490 resell an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine  
1491 product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine  
1492 device to another distributor, another retailer, or a consumer before paying the tax levied under  
1493 Subsection (1).

1494 (4) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user  
1495 shall remit the taxes collected in accordance with this section to the commission.

1496 (b) The commission shall deposit revenues generated by the tax imposed by this  
1497 section into the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account  
1498 created in Section [59-14-807](#).

1499 Section 33. Section **59-14-805** is enacted to read:

1500 **59-14-805. Remittance of tax -- Returns -- Invoice required -- Filing requirement--**  
1501 **Exception -- Penalty -- Overpayment.**

1502 (1) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user  
1503 that collects the tax imposed on an electronic cigarette substance, a prefilled electronic  
1504 cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a  
1505 prefilled nontherapeutic nicotine device shall remit to the commission, in an electronic format  
1506 approved by the commission:

1507 (i) the tax collected in the previous calendar quarter; and

1508 (ii) the quarterly tax return.

1509 (b) The tax collected and the return are due on or before the last day of April, July,  
1510 October, and January.

1511 (2) (a) A manufacturer, jobber, distributor, wholesaler, retailer, or any other person

1512 selling an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine  
1513 product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine  
1514 device to a person other than the ultimate consumer shall furnish the purchaser with an  
1515 itemized invoice showing:

1516 (i) the seller's name and address;

1517 (ii) the name and address of the purchaser;

1518 (iii) the date of sale;

1519 (iv) the name and price of the product; and

1520 (v) the discount, if any.

1521 (b) The invoice shall show whether the price includes the tax.

1522 (c) The seller and the purchaser shall retain copies of the invoice and make the invoice  
1523 available for inspection at the request of the commission or the commission's agent for a period  
1524 of three years following the sale.

1525 (3) (a) A consumer that purchases an untaxed electronic cigarette substance, prefilled  
1526 electronic cigarette, alternative nicotine product, nontherapeutic nicotine device substance, or  
1527 prefilled nontherapeutic nicotine device for use or other consumption shall:

1528 (i) file with the commission, on forms prescribed by the commission, a statement  
1529 showing the quantity and description of the item subject to tax under this part; and

1530 (ii) pay the tax imposed by this part on that item.

1531 (b) The consumer shall file the statement described in Subsection (3)(a) and pay the tax  
1532 due on or before the last day of the month immediately following the month during which the  
1533 consumer purchased an untaxed electronic cigarette substance, prefilled electronic cigarette,  
1534 alternative nicotine device substance, nontherapeutic nicotine product, or prefilled  
1535 nontherapeutic nicotine device.

1536 (c) A consumer shall maintain records necessary to determine the amount of tax the  
1537 consumer is liable to pay under this part for a period of three years following the date on which  
1538 the statement required by this section was filed.

1539 (4) A tourist who imports an untaxed electronic cigarette substance, a prefilled  
1540 electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance,  
1541 or a prefilled nontherapeutic nicotine device into the state does not need to file the statement  
1542 described in Subsection (3) or pay the tax if the item is for the tourist's own use or consumption

1543 while in this state.

1544 (5) In addition to the tax required by this part, a person shall pay a penalty as provided  
1545 in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402,  
1546 if a person subject to this section fails to:

1547 (a) pay the tax prescribed by this part;

1548 (b) pay the tax on time; or

1549 (c) file a return required by this part.

1550 (6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in  
1551 the manner prescribed in Section 59-1-402.

1552 Section 34. Section 59-14-806 is enacted to read:

1553 **59-14-806. Refund of taxes paid -- Exemption for exported electronic cigarettes**  
1554 **and nicotine products.**

1555 (1) When an electronic cigarette substance, a prefilled electronic cigarette, an  
1556 alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled  
1557 nontherapeutic nicotine device taxed under this chapter is sold and shipped to a regular dealer  
1558 in those articles in another state, the seller in this state shall be entitled to a refund of the actual  
1559 amount of the taxes paid, upon condition that the seller in this state:

1560 (a) is a licensed dealer;

1561 (b) signs an affidavit that the electronic cigarette substance, the prefilled electronic  
1562 cigarette, the alternative nicotine product, the nontherapeutic nicotine device substance, or the  
1563 prefilled nontherapeutic nicotine device was sold and shipped to a regular dealer in those  
1564 articles in another state;

1565 (c) furnishes, from the purchaser, a written acknowledgment that the purchaser has  
1566 received the electronic cigarette substance, the prefilled electronic cigarette, the alternative  
1567 nicotine product, the nontherapeutic nicotine device substance, or the prefilled nontherapeutic  
1568 nicotine device; and

1569 (d) reports the name and address of the purchaser.

1570 (2) A wholesaler or distributor in this state that exports an electronic cigarette  
1571 substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic  
1572 nicotine device substance, or a prefilled nontherapeutic nicotine device to a regular dealer in  
1573 those articles in another state shall be exempt from the payment of any tax under this chapter

1574 upon furnishing proof of the sale and exportation as the commission may require.

1575 Section 35. Section **59-14-807** is enacted to read:

1576 **59-14-807. Electronic Cigarette Substance and Nicotine Product Tax Restricted**  
1577 **Account.**

1578 (1) There is created within the General Fund a restricted account known as the  
1579 "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

1580 (2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account  
1581 consists of:

1582 (a) revenues collected from the tax imposed by Section [59-14-804](#); and

1583 (b) amounts appropriated by the Legislature.

1584 (3) (a) For each fiscal year, beginning with fiscal year 2021, and subject to  
1585 appropriation by the Legislature, the Division of Finance shall distribute from the Electronic  
1586 Cigarette Substance and Nicotine Product Tax Restricted Account:

1587 (i) \$2,000,000 to the local health departments as directed by the Department of Health,  
1588 which shall determine the allocation for each local health department using the formula created  
1589 in accordance with Section [26A-1-116](#);

1590 (ii) \$2,000,000 to the Department of Health for cessation programs and prevention  
1591 education;

1592 (iii) \$1,000,000 to the Department of Human Services; and

1593 (iv) \$1,180,000 to the Department of Public Safety for a law enforcement officers  
1594 aimed at disrupting organizations and networks that provide tobacco products, electronic  
1595 cigarette products, nicotine products, and other illegal controlled substances to minors.

1596 (b) The local health departments shall use the money received in accordance with  
1597 Subsection (3)(a)(i) for enforcing:

1598 (i) the regulation provisions described in Section [26-57-103](#);

1599 (ii) the labeling requirement described in Section [26-57-104](#); and

1600 (iii) the penalty provisions described in Section [26-62-305](#).

1601 (c) The Department of Health shall use the money received in accordance with  
1602 Subsection (3)(a)(ii) for:

1603 (i) the development and implementation of evidence-based tobacco, electronic cigarette  
1604 product, and nicotine product cessation programs for individuals under 21 years old; and

1605 (ii) developing and providing tobacco, electronic cigarette product, nicotine product,  
1606 and other illegal controlled substance use prevention education to individuals under 21 years  
1607 old.

1608 (d) The Department of Human Services shall use the money received in accordance  
1609 with Subsection (3)(a)(iii) to provide substance abuse treatment.

1610 Section 36. Section **59-14-808** is enacted to read:

1611 **59-14-808. Restrictions on mail order or Internet sales.**

1612 (1) For purposes of this section:

1613 (a) "Distributor" means a person, wherever residing or located, who:

1614 (i) is licensed in this state to purchase a non-taxed nicotine product or a non-taxed  
1615 electronic cigarette product; and

1616 (ii) stores, sells, or otherwise disposes of a nicotine product or an electronic cigarette  
1617 product.

1618 (b) "Licensed person" means the same as that term is defined in Section [59-14-409](#).

1619 (c) "Order or purchase" includes:

1620 (i) by mail or delivery service;

1621 (ii) through the Internet or computer network;

1622 (iii) by telephone; or

1623 (iv) through some other electronic method.

1624 (d) "Retailer" means any person who sells a nicotine product or an electronic cigarette  
1625 product to consumers for personal consumption.

1626 (2) A person, distributor, manufacturer, or retailer shall not:

1627 (a) cause a nicotine product or an electronic cigarette product to be ordered or  
1628 purchased by anyone other than a licensed person; or

1629 (b) knowingly provide substantial assistance to a person who violates this section.

1630 (3) (a) Each order or purchase of a nicotine product or an electronic cigarette product in  
1631 violation of Subsection (2) constitutes a separate violation under this section.

1632 (b) In addition to the penalties in Subsection (4), a person who violates this section is  
1633 subject to:

1634 (i) a civil penalty in an amount not to exceed \$5,000 for each violation of this section;

1635 (ii) an injunction to restrain a threatened or actual violation of this section; and

1636 (iii) recovery by the state for:  
1637 (A) the costs of investigation;  
1638 (B) the cost of expert witness fees;  
1639 (C) the cost of the action; and  
1640 (D) reasonable attorney's fees.  
1641 (4) A person who knowingly violates this section has engaged in an unfair and  
1642 deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act, and the court  
1643 shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged  
1644 and paid to the state treasurer for deposit in the General Fund.

1645 Section 37. Section **63I-1-226** is amended to read:

1646 **63I-1-226. Repeal dates, Title 26.**

1647 (1) Section **26-1-40** is repealed July 1, 2022.

1648 (2) Section **26-7-10** is repealed July 1, 2025.

1649 ~~[(2)]~~ (3) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed  
1650 July 1, 2025.

1651 ~~[(3)]~~ (4) Section **26-10-11** is repealed July 1, 2020.

1652 ~~[(4)]~~ (5) Subsection **26-18-417(3)** is repealed July 1, 2020.

1653 ~~[(5)]~~ (6) Subsection **26-18-418(2)**, the language that states "and the Mental Health  
1654 Crisis Line Commission created in Section **63C-18-202**" is repealed July 1, 2023.

1655 ~~[(6) Section **26-18-419.1** is repealed December 31, 2019:]~~

1656 (7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

1657 (8) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

1658 (9) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed  
1659 July 1, 2024.

1660 (10) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

1661 (11) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and  
1662 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.

1663 (12) Subsection **26-61a-108(2)(e)(i)**, related to the Native American Legislative  
1664 Liaison Committee, is repealed July 1, 2022.

1665 (13) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed  
1666 July 1, 2026.

1667 Section 38. Section 76-8-311.3 is amended to read:

1668 **76-8-311.3. Items prohibited in correctional and mental health facilities --**

1669 **Penalties.**

1670 (1) As used in this section:

1671 (a) "Contraband" means any item not specifically prohibited for possession by  
1672 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

1673 (b) "Controlled substance" means any substance defined as a controlled substance  
1674 under Title 58, Chapter 37, Utah Controlled Substances Act.

1675 (c) "Correctional facility" means:

1676 (i) any facility operated by or contracting with the Department of Corrections to house  
1677 offenders in either a secure or nonsecure setting;

1678 (ii) any facility operated by a municipality or a county to house or detain criminal  
1679 offenders;

1680 (iii) any juvenile detention facility; and

1681 (iv) any building or grounds appurtenant to the facility or lands granted to the state,  
1682 municipality, or county for use as a correctional facility.

1683 (d) "Electronic cigarette product" [~~is as~~] means the same as that term is defined in  
1684 Section 76-10-101.

1685 (e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b,  
1686 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,  
1687 Chapter 37, Utah Controlled Substances Act.

1688 (f) "Mental health facility" [~~is as~~] means the same as that term is defined in Section  
1689 62A-15-602.

1690 (g) "Offender" means a person in custody at a correctional facility.

1691 (h) "Secure area" [~~is as~~] means the same as that term is defined in Section 76-8-311.1.

1692 (2) Notwithstanding Section 76-10-500, a correctional or mental health facility may  
1693 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,  
1694 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any  
1695 quantity may be:

1696 (a) transported to or upon a correctional or mental health facility;

1697 (b) sold or given away at any correctional or mental health facility;

- 1698 (c) given to or used by any offender at a correctional or mental health facility; or  
1699 (d) knowingly or intentionally possessed at a correctional or mental health facility.
- 1700 (3) It is a defense to any prosecution under this section if the accused in committing the  
1701 act made criminal by this section with respect to:
- 1702 (a) a correctional facility operated by the Department of Corrections, acted in  
1703 conformity with departmental rule or policy;
- 1704 (b) a correctional facility operated by a municipality, acted in conformity with the  
1705 policy of the municipality;
- 1706 (c) a correctional facility operated by a county, acted in conformity with the policy of  
1707 the county; or
- 1708 (d) a mental health facility, acted in conformity with the policy of the mental health  
1709 facility.
- 1710 (4) (a) Any [~~person~~] individual who transports to or upon a correctional facility, or into  
1711 a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or  
1712 implement of escape with intent to provide or sell it to any offender, is guilty of a second  
1713 degree felony.
- 1714 (b) Any [~~person~~] individual who provides or sells to any offender at a correctional  
1715 facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition,  
1716 dangerous weapon, or implement of escape is guilty of a second degree felony.
- 1717 (c) Any offender who possesses at a correctional facility, or any detainee who  
1718 possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous  
1719 weapon, or implement of escape is guilty of a second degree felony.
- 1720 (d) Any [~~person~~] individual who, without the permission of the authority operating the  
1721 correctional facility or the secure area of a mental health facility, knowingly possesses at a  
1722 correctional facility or a secure area of a mental health facility any firearm, ammunition,  
1723 dangerous weapon, or implement of escape is guilty of a third degree felony.
- 1724 (e) Any [~~person~~] individual violates Section 76-10-306 who knowingly or intentionally  
1725 transports, possesses, distributes, or sells any explosive in a correctional facility or mental  
1726 health facility.
- 1727 (5) (a) [~~A person~~] An individual is guilty of a third degree felony who, without the  
1728 permission of the authority operating the correctional facility or secure area of a mental health



1729 facility, knowingly transports to or upon a correctional facility or into a secure area of a mental  
1730 health facility any:

1731 (i) spirituous or fermented liquor;

1732 (ii) medicine, whether or not lawfully prescribed for the offender; or

1733 (iii) poison in any quantity.

1734 (b) ~~[A person]~~ An individual is guilty of a third degree felony who knowingly violates  
1735 correctional or mental health facility policy or rule by providing or selling to any offender at a  
1736 correctional facility or detainee within a secure area of a mental health facility any:

1737 (i) spirituous or fermented liquor;

1738 (ii) medicine, whether or not lawfully prescribed for the offender; or

1739 (iii) poison in any quantity.

1740 (c) An inmate is guilty of a third degree felony who, in violation of correctional or  
1741 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a  
1742 mental health facility any:

1743 (i) spirituous or fermented liquor;

1744 (ii) medicine, other than medicine provided by the facility's health care providers in  
1745 compliance with facility policy; or

1746 (iii) poison in any quantity.

1747 (d) ~~[A person]~~ An individual is guilty of a class A misdemeanor who, with the intent to  
1748 directly or indirectly provide or sell any tobacco product or electronic cigarette product to an  
1749 offender, directly or indirectly:

1750 (i) transports, delivers, or distributes any tobacco product or electronic cigarette  
1751 product to an offender or on the grounds of any correctional facility;

1752 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another  
1753 person to transport any tobacco product or electronic cigarette product to an offender or on any  
1754 correctional facility, if the person is acting with the mental state required for the commission of  
1755 an offense; or

1756 (iii) facilitates, arranges, or causes the transport of any tobacco product or electronic  
1757 cigarette product in violation of this section to an offender or on the grounds of any  
1758 correctional facility.

1759 (e) ~~[A person]~~ An individual is guilty of a class A misdemeanor who, without the

1760 permission of the authority operating the correctional or mental health facility, fails to declare  
1761 or knowingly possesses at a correctional facility or in a secure area of a mental health facility  
1762 any:

1763 (i) spirituous or fermented liquor;

1764 (ii) medicine; or

1765 (iii) poison in any quantity.

1766 (f) (i) [A person] Except as provided in Subsection (5)(f)(ii), an individual is guilty of a  
1767 class B misdemeanor who, without the permission of the authority operating the correctional  
1768 facility, knowingly engages in any activity that would facilitate the possession of any  
1769 contraband by an offender in a correctional facility.

1770 (ii) The provisions of Subsection (5)(d) regarding any tobacco product or electronic  
1771 cigarette product take precedence over this Subsection (5)(f).

1772 (g) Exemptions may be granted for worship for Native American inmates pursuant to  
1773 Section [64-13-40](#).

1774 (6) The possession, distribution, or use of a controlled substance at a correctional  
1775 facility or in a secure area of a mental health facility shall be prosecuted in accordance with  
1776 Title 58, Chapter 37, Utah Controlled Substances Act.

1777 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative  
1778 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing  
1779 any tobacco product or electronic cigarette to offenders is a class A misdemeanor.

1780 Section 39. Section **76-10-101** is amended to read:

1781 **76-10-101. Definitions.**

1782 As used in this part:

1783 (1) (a) "Alternative nicotine product" means a product, other than a cigarette, a  
1784 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a  
1785 tobacco product, that:

1786 (i) contains nicotine;

1787 (ii) is intended for human consumption;

1788 (iii) is not purchased with a prescription from a licensed physician; and

1789 (iv) is not approved by the United States Food and Drug Administration as nicotine  
1790 replacement therapy.

1791 (b) "Alternative nicotine product" includes:

1792 (i) pure nicotine;

1793 (ii) snortable nicotine;

1794 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and

1795 (iv) nicotine-laced food and beverage.

1796 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that  
 1797 contains naturally occurring nicotine.

1798 ~~[(+)]~~ (2) "Cigar" means a product that contains nicotine, is intended to be burned under  
 1799 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in  
 1800 any substance containing tobacco, other than any roll of tobacco that is a cigarette [as described  
 1801 in Subsection (2)].

1802 ~~[(2)]~~ (3) "Cigarette" means a product that contains nicotine, is intended to be burned  
 1803 under ordinary conditions of use, and consists of:

1804 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

1805 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of  
 1806 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to  
 1807 be offered to, or purchased by, consumers as a cigarette described in Subsection ~~[(2)]~~ (3)(a).

1808 ~~[(3) "Electronic cigarette" means an electronic cigarette product, as defined in Section~~  
 1809 ~~59-14-802.]~~

1810 (4) (a) "Electronic cigarette" means:

1811 (i) any electronic oral device:

1812 (A) that provides an aerosol or a vapor of nicotine or other substance; and

1813 (B) which simulates smoking through its use or through inhalation of the device;

1814 (ii) a component of the device described in Subsection (4)(a)(i); and

1815 (iii) an accessory sold in the same package as the device described in Subsection  
 1816 (7)(a)(i).

1817 (b) "Electronic cigarette" includes an oral device that is:

1818 (i) composed of a heating element, battery, or electronic circuit; and

1819 (ii) marketed, manufactured, distributed, or sold as:

1820 (A) an e-cigarette;

1821 (B) an e-cigar;

- 1822            (C) an e-pipe; or
- 1823            (D) any other product name or descriptor, if the function of the product meets the
- 1824 definition of Subsection (4)(a).
- 1825            (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
- 1826 substance, or a prefilled electronic cigarette.
- 1827            (6) "Electronic cigarette substance" means any substance, including liquid containing
- 1828 nicotine, used or intended for use in an electronic cigarette.
- 1829            (7) "Nicotine" means a poisonous, nitrogen containing chemical that is made
- 1830 synthetically or derived from tobacco or other plants.
- 1831            (8) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).
- 1832            (9) (a) "Nontherapeutic nicotine device" means a device that:
- 1833            (i) has a pressurized canister that is used to administer nicotine to the user through
- 1834 inhalation or intranasally;
- 1835            (ii) is not purchased with a prescription from a licensed physician; and
- 1836            (iii) is not approved by the United States Food and Drug Administration as nicotine
- 1837 replacement therapy.
- 1838            (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a
- 1839 nontherapeutic nicotine nasal spray.
- 1840            (10) "Nontherapeutic nicotine device substance" means a substance that:
- 1841            (a) contains nicotine;
- 1842            (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
- 1843            (c) is not purchased with a prescription from a licensed physician; and
- 1844            (d) is not approved by the United States Food and Drug Administration as nicotine
- 1845 replacement therapy.
- 1846            (11) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a
- 1847 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.
- 1848            [~~4~~] (12) "Place of business" includes:
- 1849            (a) a shop;
- 1850            (b) a store;
- 1851            (c) a factory;
- 1852            (d) a public garage;

- 1853 (e) an office;
- 1854 (f) a theater;
- 1855 (g) a recreation hall;
- 1856 (h) a dance hall;
- 1857 (i) a poolroom;
- 1858 (j) a café;
- 1859 (k) a cafeteria;
- 1860 (l) a cabaret;
- 1861 (m) a restaurant;
- 1862 (n) a hotel;
- 1863 (o) a lodging house;
- 1864 (p) a streetcar;
- 1865 (q) a bus;
- 1866 (r) an interurban or railway passenger coach;
- 1867 (s) a waiting room; and
- 1868 (t) any other place of business.

1869 (13) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled  
1870 with an electronic cigarette substance.

1871 (14) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device  
1872 that is sold prefilled with a nontherapeutic nicotine device substance.

1873 [~~5~~] (15) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other  
1874 lighted smoking equipment.

1875 (16) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind  
1876 that is used, intended for use, or designed for use to package, repack, store, contain,  
1877 conceal, ingest, inhale, or otherwise introduce a cigar, a cigarette, an electronic cigarette  
1878 substance, a nontherapeutic nicotine device substance, or tobacco in any form into the human  
1879 body.

1880 (b) "Tobacco paraphernalia" includes:

1881 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without  
1882 screens, permanent screens, hashish heads, or punctured metal bowls;

1883 (ii) water pipes;

- 1884 (iii) carburetion tubes and devices;
- 1885 (iv) smoking and carburetion masks;
- 1886 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that
- 1887 has become too small or too short to be held in the hand;
- 1888 (vi) chamber pipes;
- 1889 (vii) carburetor pipes;
- 1890 (viii) electric pipes;
- 1891 (ix) air-driven pipes;
- 1892 (x) chillums;
- 1893 (xi) bongs; and
- 1894 (xii) ice pipes or chillers.
- 1895 (c) "Tobacco paraphernalia" does not include matches or lighters.
- 1896 (17) "Tobacco product" means:
- 1897 (a) a cigar;
- 1898 (b) a cigarette;
- 1899 (c) a tobacco product, including:
- 1900 (i) chewing tobacco; and
- 1901 (ii) any substitute for a tobacco product, including flavoring or additives to tobacco;
- 1902 and
- 1903 (d) tobacco paraphernalia.

Section 40. Section **76-10-103 (Effective 07/01/20)** is amended to read:

**76-10-103 (Effective 07/01/20). Permitting minors to use tobacco products, electronic cigarette products, or nicotine products in place of business.**

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

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

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

Section 41. Section **76-10-104 (Effective 07/01/20)** is amended to read:

**76-10-104 (Effective 07/01/20). Providing a cigar, a cigarette, an electronic**

1915 **cigarette product, a nicotine product, or tobacco to a minor -- Penalties.**

1916 ~~[(1) A person violates this section who knowingly, intentionally, recklessly, or with~~  
1917 ~~criminal negligence provides a cigar, cigarette, electronic cigarette, or tobacco in any form, to~~  
1918 ~~an individual under the following ages, is guilty of a class C misdemeanor on the first offense,~~  
1919 ~~a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent~~  
1920 ~~offenses:]~~

1921 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1922 ~~[(b) beginning July 1, 2021, 21 years old.]~~

1923 ~~[(2)]~~ (1) As used in this section "provides":

1924 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1925 (b) does not include the acts of the United States Postal Service or other common  
1926 carrier when engaged in the business of transporting and delivering packages for others or the  
1927 acts of a person, whether compensated or not, who transports or delivers a package for another  
1928 person without any reason to know of the package's content.

1929 (2) An individual is guilty of a class C misdemeanor on the first offense, a class B  
1930 misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses if the  
1931 individual knowingly, intentionally, recklessly, or with criminal negligence provides a cigar, a  
1932 cigarette, an electronic cigarette product, a nicotine product, or tobacco in any form to an  
1933 individual who is under 21 years old.

1934 Section 42. Section **76-10-104.1 (Effective 07/01/20)** is amended to read:

1935 **76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to a minor --**  
1936 **Penalties.**

1937 (1) For purposes of this section[;], "provides":

1938 ~~[(a) "Provides":]~~

1939 ~~[(i)]~~ (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1940 ~~[(ii)]~~ (b) does not include the acts of the United States Postal Service or other common  
1941 carrier when engaged in the business of transporting and delivering packages for others or the  
1942 acts of a person, whether compensated or not, who transports or delivers a package for another  
1943 person without any reason to know of the package's content.

1944 ~~[(b) "Tobacco paraphernalia": (i) means equipment, product, or material of any kind~~  
1945 ~~that is used, intended for use, or designed for use to package, repackage, store, contain,~~

1946 ~~conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the~~  
 1947 ~~human body, including:]~~

1948 ~~[(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without~~  
 1949 ~~screens, permanent screens, hashish heads, or punctured metal bowls;]~~

1950 ~~[(B) water pipes;]~~

1951 ~~[(C) carburetion tubes and devices;]~~

1952 ~~[(D) smoking and carburetion masks;]~~

1953 ~~[(E) roach clips, meaning objects used to hold burning material, such as a cigarette,~~  
 1954 ~~that has become too small or too short to be held in the hand;]~~

1955 ~~[(F) chamber pipes;]~~

1956 ~~[(G) carburetor pipes;]~~

1957 ~~[(H) electric pipes;]~~

1958 ~~[(I) air-driven pipes;]~~

1959 ~~[(J) chillums;]~~

1960 ~~[(K) bongs; and]~~

1961 ~~[(L) ice pipes or chillers; and]~~

1962 ~~[(i) does not include matches or lighters.]~~

1963 (2) (a) It is unlawful for ~~[a person]~~ an individual to knowingly, intentionally,  
 1964 recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under[:]  
 1965 21 years old.

1966 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1967 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1968 (b) ~~[A person]~~ An individual who violates this section is guilty of a class C  
 1969 misdemeanor on the first offense and a class B misdemeanor on subsequent offenses.

1970 Section 43. Section **76-10-105 (Effective 07/01/20)** is amended to read:

1971 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, a cigarette, an**  
 1972 **electronic cigarette product, a nicotine product, or tobacco by a minor -- Penalty --**  
 1973 **Compliance officer authority -- Juvenile court jurisdiction.**

1974 (1) [(a)] An individual who is 18 years or older, but younger than ~~[the age specified in~~  
 1975 ~~Subsection (1)(b)]~~ 21 years old, and buys or attempts to buy, accepts, or has in the individual's  
 1976 possession any cigar, cigarette, electronic cigarette product, nicotine product, or tobacco in any



1977 form is guilty of an infraction and subject to:

1978 ~~[(†)]~~ (a) a minimum fine or penalty of \$60; and

1979 ~~[(†)]~~ (b) participation in a court-approved tobacco education or cessation program,  
1980 which may include a participation fee.

1981 ~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

1982 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1983 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1984 (2) (a) An individual under the age of 18 who buys or attempts to buy, accepts, or has  
1985 in the individual's possession any cigar, cigarette, electronic cigarette product, nicotine product,  
1986 or tobacco in any form is subject to the jurisdiction of the juvenile court and subject to Section  
1987 78A-6-602, unless the violation is committed on school property.

1988 (b) If a violation under this section is adjudicated under Section 78A-6-117, the minor  
1989 may be subject to the following:

1990 ~~[(a)]~~ (i) a fine or penalty, in accordance with Section 78A-6-117; and

1991 ~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may  
1992 include a participation fee.

1993 (3) (a) A compliance officer appointed by a board of education under Section  
1994 53G-4-402 may not issue a citation for a violation of this section committed on school  
1995 property.

1996 (b) A cited violation committed on school property shall be addressed in accordance  
1997 with Section 53G-8-211.

1998 ~~[(4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,  
1999 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older  
2000 and is:]~~

2001 ~~[(i) on active duty in the United States Armed Forces; or]~~

2002 ~~[(ii) a spouse or dependent of an individual who is on active duty in the United States  
2003 Armed Forces.]~~

2004 ~~[(b) A valid, government-issued military identification card is required to verify proof  
2005 of age under Subsection (4)(a).]~~

2006 Section 44. Section **76-10-105.1 (Effective 07/01/20)** is amended to read:

2007 **76-10-105.1 (Effective 07/01/20). Requirement of direct, face-to-face sale of a**

2008 **cigarette, tobacco, an electronic cigarette product, or a nicotine product -- Minors not**  
2009 **allowed in tobacco specialty shop -- Penalties.**

2010 (1) As used in this section:

2011 (a) "Cigarette" means the same as that term is defined in Section [59-14-102](#).

2012 (b) (i) "Face-to-face exchange" means a transaction made in person between an  
2013 individual and a retailer or retailer's employee.

2014 (ii) "Face-to-face exchange" does not include a sale through a:

2015 (A) vending machine; or

2016 (B) self-service display.

2017 (c) "Retailer" means a person who:

2018 (i) sells a cigarette, tobacco, [or] an electronic cigarette product, or a nicotine product  
2019 to an individual for personal consumption; or

2020 (ii) operates a facility with a vending machine that sells a cigarette, tobacco, [or] an  
2021 electronic cigarette product, or a nicotine product.

2022 (d) "Self-service display" means a display of a cigarette, tobacco, [or] an electronic  
2023 cigarette product, or a nicotine product to which the public has access without the intervention  
2024 of a retailer or retailer's employee.

2025 (e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

2026 (f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is  
2027 defined:

2028 (i) as it relates to a municipality, in Section [10-8-41.6](#); and

2029 (ii) as it relates to a county, in Section [17-50-333](#).

2030 (2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, [or] an  
2031 electronic cigarette product, or a nicotine product only in a face-to-face exchange.

2032 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

2033 (a) a mail-order, telephone, or Internet sale made in compliance with Section  
2034 [59-14-509](#);

2035 (b) a sale from a vending machine or self-service display that is located in an area of a  
2036 retailer's facility:

2037 (i) that is distinct and separate from the rest of the facility; and

2038 (ii) where the retailer only allows an individual who complies with Subsection (4) to be

2039 present; or

2040 (c) a sale at a tobacco specialty shop.

2041 (4) ~~[(a)]~~ An individual who is less than ~~[the age specified in Subsection (4)(b)]~~ 21

2042 years old may not enter or be present at a tobacco specialty shop unless the individual is:

2043 ~~[(i)]~~ (a) accompanied by a parent or legal guardian; or

2044 ~~[(ii)]~~ (b) present at the tobacco shop for a bona fide commercial purpose other than to  
2045 purchase a cigarette, tobacco, ~~[or]~~ an electronic cigarette~~;~~ or product, or a nicotine product.

2046 ~~[(iii)] 18 years old or older and an active-duty member of the United States Armed~~

2047 ~~Forces, as demonstrated by a valid, government-issued military identification card.]~~

2048 ~~[(b) For purposes of Subsection (4)(a), the individual is younger than:]~~

2049 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

2050 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

2051 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)~~[(i)]~~, an

2052 individual into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not

2053 allow the individual to purchase a cigarette, tobacco, ~~[or]~~ an electronic cigarette product, or a

2054 nicotine product.

2055 (6) A violation of Subsection (2) or (4) is a:

2056 (a) class C misdemeanor on the first offense;

2057 (b) class B misdemeanor on the second offense; and

2058 (c) class A misdemeanor on the third and all subsequent offenses.

2059 (7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor  
2060 under Section 76-10-104.

2061 (8) (a) An ordinance, regulation, or rule adopted by the governing body of a political

2062 subdivision of the state or by a state agency that affects the sale, minimum age of sale,

2063 placement, or display of ~~[cigarettes]~~ a cigarette, tobacco, ~~[or]~~ an electronic ~~[cigarettes]~~

2064 cigarette product, or a nicotine product that is not essentially identical to this section and

2065 Section 76-10-102 is superseded.

2066 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use  
2067 ordinance by a municipal or county government.

2068 Section 45. Section 76-10-111 is amended to read:

2069 **76-10-111. Restrictions on sale of smokeless tobacco or electronic cigarette**

2070 **products -- Exceptions.**

2071 (1) The Legislature finds that:

2072 (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who  
2073 use those products because research indicates that they may cause mouth or oral cancers;

2074 (b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

2075 (c) the use of electronic [~~cigarettes~~] cigarette products may lead to unhealthy behavior  
2076 such as the use of tobacco products; and2077 (d) it is necessary to restrict the gift of the products described in this Subsection (1) in  
2078 the interest of the health of the citizens of this state.2079 (2) (a) Except as provided in Subsection (3), it is unlawful for a manufacturer,  
2080 wholesaler, and retailer to:2081 (i) give or distribute without charge any smokeless tobacco, chewing tobacco, or  
2082 electronic cigarette product in this state[.];2083 (ii) sell, offer for sale, or furnish any electronic cigarette product at less than 90% of  
2084 the cost, including the amount of any applicable tax, of the product to the manufacturer,  
2085 wholesaler, or retailer; or2086 (iii) give, distribute, sell, offer for sale, or furnish any electronic cigarette product for  
2087 free or at a lower price because the recipient of the electronic cigarette product makes another  
2088 purchase.2089 (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection  
2090 (2)(a)(ii) does not include a discount for:2091 (i) a physical manufacturer coupon:2092 (A) that is surrendered to the wholesaler or retailer at the time of sale; and2093 (B) for which the manufacturer will reimburse the wholesaler or the retailer for the full  
2094 amount of the discount described in the manufacturer coupon and provided to the purchaser;2095 (ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for the  
2096 full amount of the rebate provided to the purchaser; or2097 (iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the  
2098 retailer for the full amount of the promotional fund provided to the purchaser.2099 (c) Any [~~person~~] individual who violates this section is guilty of:2100 (i) a class C misdemeanor for the first offense[~~, and is guilty of~~]; or

2101 (ii) a class B misdemeanor for any subsequent offense.

2102 (3) [(a)] Smokeless tobacco, chewing tobacco, or an electronic cigarette product may  
2103 be distributed to adults without charge at professional conventions where the general public is  
2104 excluded.

2105 [~~(b) Subsection (2) does not apply to a retailer, manufacturer, or distributor who gives~~  
2106 ~~smokeless tobacco, chewing tobacco, or an electronic cigarette to a person of legal age upon~~  
2107 ~~the person's purchase of another tobacco product or electronic cigarette.~~]

2108 Section 46. Section **77-39-101 (Effective 07/01/20)** is amended to read:

2109 **77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco, and**  
2110 **electronic cigarette products to underage individuals.**

2111 (1) As used in this section, "electronic cigarette product" [~~is as~~] means the same as that  
2112 term is defined in Section **76-10-101**.

2113 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer  
2114 Classifications, may investigate the possible violation of:

2115 (i) Section **32B-4-403** by requesting an individual under 21 years old to enter into and  
2116 attempt to purchase or make a purchase of alcohol from a retail establishment; or

2117 (ii) Section **76-10-104** by requesting an individual under [~~the age specified in~~  
2118 ~~Subsection (2)(e)] 21 years old to enter into and attempt to purchase or make a purchase from a  
2119 retail establishment of:~~

2120 (A) a cigar;

2121 (B) a cigarette;

2122 (C) tobacco in any form; or

2123 (D) an electronic cigarette product.

2124 (b) A peace officer who is present at the site of a proposed purchase shall direct,  
2125 supervise, and monitor the individual requested to make the purchase.

2126 (c) Immediately following a purchase or attempted purchase or as soon as practical the  
2127 supervising peace officer shall inform the cashier and the proprietor or manager of the retail  
2128 establishment that the attempted purchaser was under the legal age to purchase:

2129 (i) alcohol; or

2130 (ii) (A) a cigar;

2131 (B) a cigarette;

- 2132 (C) tobacco in any form; or  
2133 (D) an electronic cigarette product.  
2134 (d) If a citation or information is issued, it shall be issued within seven days of the  
2135 purchase.  
2136 [~~(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:~~  
2137 [~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~  
2138 [~~(ii) beginning July 1, 2021, 21 years old.~~]  
2139 (3) (a) If an individual under the age of 18 years old is requested to attempt a purchase,  
2140 a written consent of that individual's parent or guardian shall be obtained prior to that  
2141 individual participating in any attempted purchase.  
2142 (b) An individual requested by the peace officer to attempt a purchase may:  
2143 (i) be a trained volunteer; or  
2144 (ii) receive payment, but may not be paid based on the number of successful purchases  
2145 of alcohol, tobacco, or an electronic cigarette product.  
2146 (4) The individual requested by the peace officer to attempt a purchase and anyone  
2147 accompanying the individual attempting a purchase may not during the attempted purchase  
2148 misrepresent the age of the individual by false or misleading identification documentation in  
2149 attempting the purchase.  
2150 (5) An individual requested to attempt to purchase or make a purchase pursuant to this  
2151 section is immune from prosecution, suit, or civil liability for the purchase of, attempted  
2152 purchase of, or possession of alcohol, a cigar, a cigarette, tobacco in any form, or an electronic  
2153 cigarette product if a peace officer directs, supervises, and monitors the individual.  
2154 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section  
2155 shall be conducted:  
2156 (i) on a random basis; and  
2157 (ii) within a 12-month period at any one retail establishment location not more often  
2158 than:  
2159 (A) two times for the attempted purchase of:  
2160 (I) a cigar;  
2161 (II) a cigarette;  
2162 (III) tobacco in any form; or

2163 (IV) an electronic cigarette product; and  
2164 (B) four times for the attempted purchase of alcohol.  
2165 (b) This section does not prohibit an investigation or an attempt to purchase tobacco  
2166 under this section if:  
2167 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a  
2168 cigar, a cigarette, tobacco in any form, or an electronic cigarette product to an individual under  
2169 the age established by Section [32B-4-403](#) or [76-10-104](#); and  
2170 (ii) the supervising peace officer makes a written record of the grounds for the  
2171 reasonable suspicion.  
2172 (7) (a) The peace officer exercising direction, supervision, and monitoring of the  
2173 attempted purchase shall make a report of the attempted purchase, whether or not a purchase  
2174 was made.  
2175 (b) The report required by this Subsection (7) shall include:  
2176 (i) the name of the supervising peace officer;  
2177 (ii) the name of the individual attempting the purchase;  
2178 (iii) a photograph of the individual attempting the purchase showing how that  
2179 individual appeared at the time of the attempted purchase;  
2180 (iv) the name and description of the cashier or proprietor from whom the individual  
2181 attempted the purchase;  
2182 (v) the name and address of the retail establishment; and  
2183 (vi) the date and time of the attempted purchase.  
2184 Section 47. **Effective date.**  
2185 This bill takes effect on July 1, 2020.