

Senator Kirk A. Cullimore proposes the following substitute bill:

1 **ELECTRONIC CIGARETTE AND OTHER NICOTINE**
2 **PRODUCT AMENDMENTS**

3 2020 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Allen M. Christensen**

6 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		

12
13 **LONG TITLE**

14 **General Description:**

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

17 **Highlighted Provisions:**

18 This bill:

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



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

55 **Money Appropriated in this Bill:**

56 None

57 **Other Special Clauses:**

58 This bill provides a special effective date.

59 **Utah Code Sections Affected:**

60 AMENDS:

61 **10-8-41.6**, as last amended by Laws of Utah 2018, Chapter 231

62 **10-8-47 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

63 **17-50-333**, as last amended by Laws of Utah 2018, Chapter 231

64 **26-1-7**, as last amended by Laws of Utah 2017, Chapter 419

65 **26-38-2**, as last amended by Laws of Utah 2018, Chapters 231 and 281

66 **26-57-101**, as enacted by Laws of Utah 2015, Chapter 132

67 **26-57-102**, as enacted by Laws of Utah 2015, Chapter 132

68 **26-62-101**, as enacted by Laws of Utah 2018, Chapter 231

69 **26-62-102**, as renumbered and amended by Laws of Utah 2018, Chapter 231

70 **26-62-201**, as enacted by Laws of Utah 2018, Chapter 231

71 **26-62-202**, as last amended by Laws of Utah 2019, Chapter 157

72 **26-62-205 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

73 **26-62-301**, as enacted by Laws of Utah 2018, Chapter 231

74 **26-62-304 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

75 **26-62-305 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

76 **26-62-306**, as renumbered and amended by Laws of Utah 2018, Chapter 231

77 **26A-1-128**, as enacted by Laws of Utah 2018, Chapter 231

78 **51-9-203 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapters 136

79 and 232

80 **53-3-229**, as last amended by Laws of Utah 2010, Chapters 114 and 276

81 **53-3-810**, as last amended by Laws of Utah 2010, Chapters 114 and 276

82 **53G-4-402**, as last amended by Laws of Utah 2019, Chapters 83, 293, and 451

83 **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293

84 **59-14-102**, as last amended by Laws of Utah 2013, Chapter 148

85 **59-14-302**, as last amended by Laws of Utah 2014, Chapter 189

86 **59-14-703 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
 87 **59-14-801**, as enacted by Laws of Utah 2015, Chapter 132
 88 **59-14-802**, as last amended by Laws of Utah 2019, Chapter 136
 89 **59-14-803**, as last amended by Laws of Utah 2018, Chapter 231
 90 **63I-1-226**, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and
 91 last amended by Coordination Clause, Laws of Utah 2019, Chapter 246
 92 **76-8-311.3**, as last amended by Laws of Utah 2010, Chapter 114
 93 **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended
 94 by Coordination Clause, Laws of Utah 2015, Chapter 132
 95 **76-10-103 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
 96 **76-10-104 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
 97 **76-10-104.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
 98 **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
 99 **76-10-105.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
 100 **76-10-111**, as last amended by Laws of Utah 2010, Chapter 114
 101 **77-39-101 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

102 ENACTS:

103 **26-7-10**, Utah Code Annotated 1953
 104 **26-57-104**, Utah Code Annotated 1953
 105 **26-62-206**, Utah Code Annotated 1953
 106 **26A-1-129**, Utah Code Annotated 1953
 107 **59-14-104**, Utah Code Annotated 1953
 108 **59-14-804**, Utah Code Annotated 1953
 109 **59-14-805**, Utah Code Annotated 1953
 110 **59-14-806**, Utah Code Annotated 1953
 111 **59-14-807**, Utah Code Annotated 1953
 112 **59-14-808**, Utah Code Annotated 1953

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

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

116 **10-8-41.6. Regulation of retail tobacco specialty business.**

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

148 tobacco products, electronic cigarette products, and nicotine products; or

149 (iv) the retail space features a self-service display for tobacco products, electronic
150 cigarette products, and nicotine products.

151 ~~[(f)]~~ (h) "Self-service display" means the same as that term is defined in Section
152 76-10-105.1.

153 ~~[(g)]~~ (i) "Tobacco product" means~~[:]~~ the same as that term is defined in Section
154 76-10-101.

155 ~~[(i) any cigar, cigarette, or electronic cigarette, as those terms are defined in Section~~
156 ~~76-10-101;]~~

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

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

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

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

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

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

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

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

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

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

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

175 (A) agriculture use; or

176 (B) residential use.

177 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in
178 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest

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

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

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

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

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

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

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

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

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

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

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

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

210 (iii) upon the recommendation of the department or a local health department under
211 Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or
212 (iv) under any other provision of state law or local ordinance.

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

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

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

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

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

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

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

229 (B) zoning ordinances;

230 (C) building codes; and

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

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

234 **10-8-47 (Effective 07/01/20). Intoxication -- Fights -- Disorderly conduct --**
235 **Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and**
236 **fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to**
237 **minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or**
238 **drug addicts.**

239 (1) A municipal legislative body may:

240 (a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights,

241 bullfights, and all disorderly conduct and provide against and punish the offenses of assault and
242 battery and petit larceny;

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

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

247 (d) provide against and prevent the offense of obtaining money or property under false
248 pretenses and the offense of embezzling money or property in the cases when the money or
249 property embezzled or obtained under false pretenses does not exceed in value the sum of
250 \$500;

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

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

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

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

257 (2) A city may:

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

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

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

266 **17-50-333. Regulation of retail tobacco specialty business.**

267 (1) As used in this section:

268 (a) "Community location" means:

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

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

271 (iii) a trade or technical school;

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

303 ~~[(i) any cigar, cigarette, or electronic cigarette as those terms are defined in Section~~
304 ~~76-10-101;]~~

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

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

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

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

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

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

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

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

- 320 (i) 1,000 feet of a community location;
- 321 (ii) 600 feet of another retail tobacco specialty business; or
- 322 (iii) 600 feet from property used or zoned for:
 - 323 (A) agriculture use; or
 - 324 (B) residential use.

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

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

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

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

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

340 (ii) for a retailer that sells an electronic cigarette product or an alternative nicotine
341 product, a valid license issued by the State Tax Commission in accordance with Section
342 59-14-803 to sell an electronic cigarette product or a nicotine product.

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

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

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

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

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

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

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

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

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

360 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has
361 a business license and is operating in a county in accordance with all applicable laws except for
362 the requirement in Subsection (4), on or before December 31, 2015, is exempt from Subsection
363 (4).

364 (b) A retail tobacco specialty business may maintain an exemption under Subsection

365 (7)(a) if:

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

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

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

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

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

376 (B) zoning ordinances;

377 (C) building codes; and

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

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

381 **26-1-7. Committees within department.**

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

383 (a) Health Facility Committee;

384 (b) State Emergency Medical Services Committee;

385 (c) Air Ambulance Committee;

386 (d) Health Data Committee;

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

388 (f) Residential Child Care Licensing Advisory Committee;

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

390 (h) Primary Care Grant Committee[.]; and

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

392 (2) The department shall:

393 (a) consolidate advisory groups and committees with other committees or advisory
394 groups as appropriate to create greater efficiencies and budgetary savings for the department;
395 and

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

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

399 **26-7-10. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention**

400 **Program.**

401 (1) As used in this section:

402 (a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug
403 Prevention Committee created in Section [26-1-7](#).

404 (b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug
405 Prevention Program created in this section.

406 (2) (a) There is created within the department the Youth Electronic Cigarette,
407 Marijuana, and Other Drug Prevention Program.

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

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

410 (ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and
411 appropriate for the population targeted by the program; and

412 (iii) subject to appropriations from the Legislature, fund statewide initiatives to prevent
413 use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.

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

415 (i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the
416 state;

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

418 (iii) implementing the provisions of the program.

419 (b) The executive director shall:

420 (i) appoint members of the committee; and

421 (ii) consult with the Utah Substance Use and Mental Health Advisory Council created
422 in Section [63M-7-301](#) when making the appointment under Subsection (3)(b)(i).

423 (c) The committee shall include, at a minimum:

424 (i) the executive director of a local health department as defined in Section [26A-1-102](#),
425 or the local health department executive director's designee;

426 (ii) one designee from the department;

427 (iii) one representative from the Department of Public Safety;
428 (iv) one representative from the behavioral health community; and
429 (v) one representative from the education community.
430 (d) A member of the committee may not receive compensation or benefits for the
431 member's service on the committee, but may receive per diem and travel expenses in
432 accordance with:
433 (i) Section [63A-3-106](#);
434 (ii) Section [63A-3-107](#); and
435 (iii) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).
436 (e) The department shall provide staff support to the committee.
437 (4) On or before October 31 of each year, the department shall report to:
438 (a) the Health and Human Services Interim Committee regarding:
439 (i) the use of funds appropriated to the program;
440 (ii) the impact and results of the program, including the effectiveness of each program
441 funded under Subsection (2)(b)(iii), during the previous fiscal year;
442 (iii) a summary of the impacts and results on reducing youth use of electronic cigarettes
443 and nicotine products by entities represented by members of the committee, including those
444 entities who receive funding through the Electronic Cigarette Substance and Nicotine Product
445 Tax Restricted Account created in Section [59-14-807](#); and
446 (iv) any recommendations for legislation; and
447 (b) the Utah Substance Use and Mental Health Advisory Council created in Section
448 [63M-7-301](#), regarding:
449 (i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing
450 youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and
451 (ii) any collaborative efforts and partnerships established by the program with public
452 and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.
453 Section 6. Section **26-38-2** is amended to read:
454 **26-38-2. Definitions.**
455 As used in this chapter:
456 [~~(1) "E-cigarette":]~~
457 [~~(a) means any electronic oral device:]~~

458 ~~[(i) that provides an aerosol or a vapor of nicotine or other substance; and]~~
459 ~~[(ii) which simulates smoking through its use or through inhalation of the device; and]~~
460 ~~[(b) includes an oral device that is:]~~
461 ~~[(i) composed of a heating element, battery, or electronic circuit; and]~~
462 ~~[(ii) marketed, manufactured, distributed, or sold as:]~~
463 ~~[(A) an e-cigarette;]~~
464 ~~[(B) e-cigar;]~~
465 ~~[(C) e-pipe; or]~~
466 ~~[(D) any other product name or descriptor, if the function of the product meets the~~
467 ~~definition of Subsection (1)(a).]~~

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

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

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

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

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

476 (a) buildings, offices, shops, elevators, or restrooms;

477 (b) means of transportation or common carrier waiting rooms;

478 (c) restaurants, cafes, or cafeterias;

479 (d) taverns as defined in [Section 32B-1-102](#), or cabarets;

480 (e) shopping malls, retail stores, grocery stores, or arcades;

481 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
482 sites, auditoriums, or arenas;

483 (g) barber shops, hair salons, or laundromats;

484 (h) sports or fitness facilities;

485 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
486 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
487 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
488 of these;

489 (j) (i) any child care facility or program subject to licensure or certification under this
490 title, including those operated in private homes, when any child cared for under that license is
491 present; and

492 (ii) any child care, other than child care as defined in Section 26-39-102, that is not
493 subject to licensure or certification under this title, when any child cared for by the provider,
494 other than the child of the provider, is present;

495 (k) public or private elementary or secondary school buildings and educational
496 facilities or the property on which those facilities are located;

497 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
498 religious organization when used solely by the organization members or their guests or
499 families;

500 (m) any facility rented or leased for private functions from which the general public is
501 excluded and arrangements for the function are under the control of the function sponsor;

502 (n) any workplace that is not a place of public access or a publicly owned building or
503 office but has one or more employees who are not owner-operators of the business;

504 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
505 stating "no smoking", "thank you for not smoking", or similar statement; and

506 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.

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

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

512 (a) contains tobacco or nicotine; and

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

514 (6) "Smoking" means:

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

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

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

519 (ii) shisha or non-tobacco shisha;

- 520 (iii) nicotine;
- 521 (iv) a natural or synthetic tobacco substitute; or
- 522 (v) a natural or synthetic flavored tobacco product;
- 523 (c) using an ~~e-cigarette~~ electronic cigarette; or
- 524 (d) using an oral smoking device intended to circumvent the prohibition of smoking in
- 525 this chapter.

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

527 **CHAPTER 57. ELECTRONIC CIGARETTE AND NICOTINE PRODUCT**
 528 **REGULATION ACT**

529 **26-57-101. Title.**

530 This chapter is known as the "Electronic Cigarette and Nicotine Product Regulation
531 Act."

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

533 **26-57-102. Definitions.**

534 As used in this chapter:

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

536 (2) "Electronic cigarette" means the same as that term is defined in Section
537 ~~[59-14-802]~~ [76-10-101](#).

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

540 (4) "Electronic cigarette substance" means the same as that term is defined in Section
541 ~~[59-14-802]~~ [76-10-101](#).

542 (5) "Local health department" means the same as that term is defined in Section
543 [26A-1-102](#).

544 ~~[(5)]~~ (6) "Manufacture" includes:

- 545 (a) to cast, construct, or make electronic cigarettes; or
- 546 (b) to blend, make, process, or prepare an electronic cigarette substance.

547 ~~[(6)]~~ (7) "Manufacturer sealed electronic cigarette substance" means an electronic
548 cigarette substance that is sold in a container that:

- 549 (a) is ~~[pre-filled]~~ prefilled by the electronic cigarette substance manufacturer; and
- 550 (b) the electronic cigarette manufacturer does not intend for a consumer to open.

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

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

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

554 **26-57-104. Labeling of nicotine products containing nicotine.**

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

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

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

561 (b) contains nicotine.

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

564 "This product contains nicotine."

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

566 **CHAPTER 62. TOBACCO, ELECTRONIC CIGARETTE, AND NICOTINE**
567 **PRODUCT RETAIL PERMIT**

568 **26-62-101. Title.**

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

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

572 **26-62-102. Definitions.**

573 As used in this chapter:

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

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

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

577 (2) "Electronic cigarette product" means the same as that term is defined in Section
578 [76-10-101](#).

579 ~~[(2)]~~ (3) "Employee" means an employee of a tobacco retailer.

580 ~~[(3)]~~ (4) "Enforcing agency" means the state Department of Health, or any local health
581 department enforcing the provisions of this chapter.

582 ~~[(4)]~~ (5) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco
583 specialty business.

584 ~~[(5)]~~ (6) "Local health department" means the same as that term is defined in Section
585 [26A-1-102](#).

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

587 ~~[(6)]~~ (8) "Permit" means a tobacco retail permit issued under this chapter.

588 ~~[(7)]~~ (9) "Retail tobacco specialty business" means the same as that term is defined:

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

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

591 ~~[(8)]~~ (10) "Tax commission license" means a license issued by the State Tax
592 Commission under:

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

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

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

596 ~~[(9)]~~ (11) "Tobacco product" means~~[-]~~ the same as that term is defined in Section
597 [76-10-101](#).

598 ~~[(a) a cigar, cigarette, or electronic cigarette as those terms are defined in Section~~
599 [76-10-101](#);

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

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

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

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

605 ~~[(10)]~~ (12) "Tobacco retailer" means a person that is required to obtain a tax
606 commission license.

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

608 **26-62-201. Permitting requirement.**

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

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

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

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

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

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

622 (a) a general tobacco retailer; or

623 (b) a retail tobacco specialty business.

624 (3) A permit under this chapter is:

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

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

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

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

631 [~~(a) may operate without a permit under this chapter until December 31, 2018, and]~~

632 [~~(b) shall obtain a permit from a local health department under this chapter before~~
633 ~~January 1, 2019.~~]

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

635 **26-62-202. Permit application.**

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

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

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

641 (2) An applicant for a permit shall:

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

644 (b) pay all applicable fees described in Section 26-62-203.
645 (3) The application for a permit shall include:
646 (a) the name, address, and telephone number of each proprietor;
647 (b) the name and mailing address of each proprietor authorized to receive
648 permit-related communication and notices;
649 (c) the business name, address, and telephone number of the single, fixed location for
650 which a permit is sought;
651 (d) evidence that the location for which a permit is sought has a valid tax commission
652 license;
653 (e) information regarding whether, in the past 24 months, any proprietor of the tobacco
654 retailer has been determined to have violated, or has been a proprietor at a location that has
655 been determined to have violated:
656 (i) a provision of this chapter;
657 (ii) Chapter 38, Utah Indoor Clean Air Act;
658 (iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical
659 Solvents;
660 (iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
661 (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco
662 issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or
663 (vi) any other provision of state law or local ordinance regarding the sale, marketing, or
664 distribution of ~~tobacco products~~ a tobacco product, an electronic cigarette product, or a
665 nicotine product; and
666 (f) the dates of all violations disclosed under this Subsection (3).
667 (4) (a) In addition to the information described in Subsection (3), an applicant for a
668 retail tobacco specialty business permit shall include evidence showing whether the business is
669 located within:
670 (i) 1,000 feet of a community location;
671 (ii) 600 feet of another retail tobacco specialty business; or
672 (iii) 600 feet of property used or zoned for agricultural or residential use.
673 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in
674 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest

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

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

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

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

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

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

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

688 **26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty**
689 **business.**

690 A retail tobacco specialty business shall:

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

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

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

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

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

698 **26-62-206. Requirements for the sale of tobacco product, electronic cigarette**
699 **product, or nicotine product.**

700 (1) A tobacco retailer shall:

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

703 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine
704 product;

705 (ii) the amount charged for each tobacco product, electronic cigarette product, or

706 nicotine product; and
707 (iii) the date and time of the sale; and
708 (b) maintain an itemized transaction log that separately identifies, for each sale of a
709 tobacco product, an electronic cigarette product, or a nicotine product:
710 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine
711 product;
712 (ii) the amount charged for each tobacco product, electronic cigarette product, or
713 nicotine product; and
714 (iii) the date and time of the sale.
715 (2) The itemized transaction log described in Subsection (1)(b) shall be:
716 (a) maintained for at least one year from the date of each transaction in the itemized
717 transaction log;
718 (b) made available to an enforcing agency or a peace officer at the request of the
719 enforcing agency or the peace officer; and
720 (c) in addition to any documentation required under Section [59-1-1406](#) and Subsection
721 [59-14-805\(2\)](#).

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

723 **26-62-301. Permit violation.**

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

- 725 (1) a provision of this chapter;
726 (2) a provision of licensing laws under Section [10-8-41.6](#) or Section [17-50-333](#);
727 (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic
728 Chemical Solvents;
729 (4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
730 (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco
731 issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
732 (6) any other provision of state law or local ordinance regarding the sale, marketing, or
733 distribution of ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a
734 nicotine product.

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

736 **26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

737 (1) At a civil hearing conducted under Section 26-62-302, evidence of the final
738 criminal conviction of a tobacco retailer or employee for violation of Section 76-10-104 at the
739 same location and within the same time period as the location and time period alleged in the
740 civil hearing for violation of this chapter for sale of ~~[tobacco products]~~ a tobacco product, an
741 electronic cigarette product, or a nicotine product to an individual under ~~[the following ages]~~
742 21 years old is prima facie evidence of a violation of this chapter[?].

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

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

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

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

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

751 **26-62-305 (Effective 07/01/20). Penalties.**

752 (1) (a) If, following an inspection by an enforcing agency, or an investigation or
753 issuance of a citation or information under Section 77-39-101, an enforcing agency determines
754 that a person has violated the terms of a permit issued under this chapter, the enforcing agency
755 may impose the penalties described in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

780 or

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

784 (b) A person whose permit:

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

788 (ii) is revoked may not apply for a new permit for any tobacco retailer for a period of
789 24 months after the day on which an enforcing agency revokes the permit.

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

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

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

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

797 **26-62-306. Recognition of tobacco retailer training program.**

798 (1) In determining the amount of the monetary penalty to be imposed for an employee's

799 violation of this chapter, a hearing officer shall reduce the civil penalty by at least 50% if the
800 hearing officer determines that:

- 801 (a) the tobacco retailer has implemented a documented employee training program; and
- 802 (b) the employees have completed that training program within 30 days after the day on
803 which each employee commences the duties of selling [~~tobacco products~~] a tobacco product, an
804 electronic cigarette product, or a nicotine product.

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

- 809 (i) the tobacco retailer agrees to initiate a training program for employees at that
810 location; and
- 811 (ii) the training program begins within 30 days after the hearing officer makes a
812 determination under this Subsection (2)(a).

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

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

819 **26A-1-128. Tobacco, electronic cigarette, and nicotine product permits --**
820 **Enforcement.**

821 A local health department:

- 822 (1) shall enforce the requirements of Title 26, Chapter 62, Tobacco, Electronic
823 Cigarette, and Nicotine Product Retail Permit;
- 824 (2) may enforce licensing requirements for entities that hold a business license to sell
825 [~~tobacco products~~] a tobacco product, an electronic cigarette product, or a nicotine product
826 under Section 10-8-41.6 or Section 17-50-333; and
- 827 (3) may recommend to a municipality or county that the business license of a retail
828 tobacco specialty business be suspended or revoked for a violation of Section 10-8-41.6,
829 Section 17-50-333, or Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine

830 Product Retail Permit.

831 Section 21. Section **26A-1-129** is enacted to read:

832 **26A-1-129. Electronic Cigarette, Marijuana, and Other Drug Prevention Grant**
833 **Program -- Reporting.**

834 (1) As used in this section "grant program" means the Electronic Cigarette, Marijuana,
835 and Other Drug Prevention Grant Program created in this section.

836 (2) There is created the Electronic Cigarette, Marijuana, and Other Drug Prevention
837 Grant Program which shall be administered by local health departments in accordance with this
838 section.

839 (3) (a) A local health department shall administer the grant program with funds
840 allocated to the grant program under Subsection [59-14-807\(4\)\(d\)](#), to award grants to:

841 (i) a coalition of community organizations that is focused on substance abuse
842 prevention;

843 (ii) a local government agency, including a law enforcement agency, for a program that
844 is focused on substance abuse prevention; or

845 (iii) a local education agency as defined in Section [53J-1-301](#).

846 (b) A recipient of a grant under the grant program shall use the grant to address root
847 causes and factors associated with the use of electronic cigarettes, marijuana, and other drugs:

848 (i) by addressing one or more risk or protective factors identified in the Utah Student
849 Health and Risk Prevention Statewide Survey; and

850 (ii) through one or more of the following activities aimed at reducing use of electronic
851 cigarettes, marijuana, and other drugs:

852 (A) providing information;

853 (B) enhancing individual skills;

854 (C) providing support to activities that reduce risk or enhance protections;

855 (D) enhancing access or reducing barriers systems, processes, or programs;

856 (E) changing consequences by addressing incentives or disincentives;

857 (F) changing the physical design or structure of an environment to reduce risk or
858 enhance protections; or

859 (G) supporting modifications or changing policies.

860 (c) The grant program shall provide funding for a program or purpose that is:

- 861 (i) evidence-based; or
- 862 (ii) a promising practice as defined by the United States Centers for Disease Control
- 863 and Prevention.
- 864 (4) (a) An applicant for a grant under the grant program shall submit an application to
- 865 the local health department that has jurisdiction over the area in which the applicant is
- 866 proposing use of grant funds.
- 867 (b) The application described in Subsection (4)(a) shall:
- 868 (i) provide a summary of how the applicant intends to expend grant funds; and
- 869 (ii) describe how the applicant will meet the requirements described in Subsection (3).
- 870 (c) A local health department may establish the form or manner in which an applicant
- 871 must submit an application for the grant program under this section.
- 872 (5) (a) A local health department shall:
- 873 (i) on or before June 30 of each year:
- 874 (A) review each grant application the local health department receives for the grant
- 875 program; and
- 876 (B) select recipients for a grant under the grant program; and
- 877 (ii) before July 15 of each year, disperse grant funds to each selected recipient.
- 878 (b) A local health department may not award a single grant under this section in an
- 879 amount that exceeds \$100,000.
- 880 (6) (a) Before August 1 of each year, a recipient of a grant under the grant program
- 881 shall, for the previous year, submit a report to the local health department that:
- 882 (i) provides an accounting for the expenditure of grant funds;
- 883 (ii) describes measurable outcomes as a result of the expenditures;
- 884 (iii) describes the impact and effectiveness of programs and activities funded through
- 885 the grant; and
- 886 (iv) indicates the amount of grant funds remaining on the date that the report is
- 887 submitted.
- 888 (b) (i) A grant recipient shall submit the report described in Subsection (6)(a) before
- 889 August 1 of each year until the grant recipient expends all funds awarded to the recipient under
- 890 the grant program.
- 891 (ii) After a grant recipient expends all funds awarded to the recipient under the grant

892 program, the grant recipient shall submit a final report to the local health department with the
893 information described in Subsection (6)(a).

894 (7) (a) On or before September 1 of each year, each local health department shall
895 submit the reports described in Subsection (6) to the Association of Local Health Departments.

896 (b) The Association of Local Health Departments shall compile the reports and, in
897 collaboration with the Department of Health, submit a report to the Health and Human Services
898 Interim Committee regarding:

899 (i) the use of funds appropriated to the grant program;

900 (ii) the impact and effectiveness of programs activities that the grant program funds
901 during the previous fiscal year; and

902 (iii) any recommendations for legislation.

903 Section 22. Section **51-9-203 (Effective 07/01/20)** is amended to read:

904 **51-9-203 (Effective 07/01/20). Requirements for tobacco programs.**

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

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

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

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

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

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

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

920 (C) if directed toward youth:

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

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

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

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

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

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

933 (i) the amount funded;

934 (ii) the amount expended;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 956 (a) shall include a comparison of annual smoking trends;
 - 957 (b) may be conducted by an independent evaluator; and
 - 958 (c) may be paid for by funds appropriated from the account for that purpose.
- 959 (3) The Department of Health shall annually report to the Social Services

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

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

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

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

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

969 Section 23. Section **53-3-229** is amended to read:

970 **53-3-229. Prohibited uses of license certificate -- Penalty.**

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

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

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

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

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

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

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

985 license certificate issued by that governmental entity; or

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

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

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

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

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

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

997 (i) a cigarette;

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

999 (iii) a nicotine product as defined in Section 76-10-101;

1000 [~~(iii)~~] (iv) tobacco; or

1001 [~~(iv)~~] (v) a tobacco product.

1002 (4) [~~A person~~] An individual may not use, display, or transfer a false or altered driver
1003 license certificate to procure alcoholic beverages, gain admittance to a place where alcoholic
1004 beverages are sold or consumed, or obtain employment that may not be obtained by a minor in
1005 violation of Section 32B-1-403.

1006 (5) It is a third degree felony if [~~a person's~~] an individual's acquisition, use, display, or
1007 transfer of a false or altered driver license certificate:

1008 (a) aids or furthers the [~~person's~~] individual's efforts to fraudulently obtain goods or
1009 services; or

1010 (b) aids or furthers the [~~person's~~] individual's efforts to commit a violent felony.

1011 Section 24. Section 53-3-810 is amended to read:

1012 **53-3-810. Prohibited uses of identification card -- Penalties.**

1013 (1) It is a class C misdemeanor to:

1014 (a) lend or knowingly permit the use of an identification card issued to the [~~person~~]
1015 individual, by [~~a person~~] an individual not entitled to it;

- 1016 (b) display or to represent as the ~~[person's]~~ individual's own an identification card not
1017 issued to the ~~[person]~~ individual;
- 1018 (c) refuse to surrender to the division or a peace officer upon demand any identification
1019 card issued by the division;
- 1020 (d) use a false name or give a false address in any application for an identification card
1021 or any renewal or duplicate of the identification card, or to knowingly make a false statement,
1022 or to knowingly conceal a material fact in the application;
- 1023 (e) display a revoked identification card as a valid identification card;
- 1024 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
1025 identification card issued by a governmental entity if the item is not an authentic identification
1026 card issued by that governmental entity; or
- 1027 (g) alter any information contained on an authentic identification card so that it no
1028 longer represents the information originally displayed.
- 1029 (2) It is a class A misdemeanor to knowingly:
- 1030 (a) issue an identification card with false or fraudulent information;
- 1031 (b) issue an identification card to any ~~[person]~~ individual younger than 21 years of age
1032 if the identification card is not distinguished as required for ~~[a person]~~ an individual younger
1033 than 21 years of age under Section [53-3-806](#); or
- 1034 (c) acquire, use, display, or transfer a false or altered identification card to procure:
- 1035 (i) a cigarette;
- 1036 (ii) an electronic cigarette~~[-]~~ product as defined in Section [76-10-101](#);
- 1037 (iii) a nicotine product as defined in Section [76-10-101](#);
- 1038 ~~[(iii)]~~ (iv) tobacco; or
- 1039 ~~[(iv)]~~ (v) a tobacco product.
- 1040 (3) ~~[A person]~~ An individual may not knowingly use, display, or transfer a false or
1041 altered identification card to procure alcoholic beverages, gain admittance to a place where
1042 alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a
1043 minor in violation of Section [32B-1-403](#).
- 1044 (4) It is a third degree felony if ~~[a person's]~~ an individual's acquisition, use, display, or
1045 transfer of a false or altered identification card:
- 1046 (a) aids or furthers the ~~[person's]~~ individual's efforts to fraudulently obtain goods or

1047 services; or

1048 (b) aids or furthers the [~~person's~~] individual's efforts to commit a violent felony.

1049 Section 25. Section **53G-4-402** is amended to read:

1050 **53G-4-402. Powers and duties generally.**

1051 (1) A local school board shall:

1052 (a) implement the core standards for Utah public schools using instructional materials
1053 that best correlate to the core standards for Utah public schools and graduation requirements;

1054 (b) administer tests, required by the state board, which measure the progress of each
1055 student, and coordinate with the state superintendent and state board to assess results and create
1056 plans to improve the student's progress, which shall be submitted to the state board for
1057 approval;

1058 (c) use progress-based assessments as part of a plan to identify schools, teachers, and
1059 students that need remediation and determine the type and amount of federal, state, and local
1060 resources to implement remediation;

1061 (d) develop early warning systems for students or classes failing to make progress;

1062 (e) work with the state board to establish a library of documented best practices,
1063 consistent with state and federal regulations, for use by the local districts;

1064 (f) implement training programs for school administrators, including basic
1065 management training, best practices in instructional methods, budget training, staff
1066 management, managing for learning results and continuous improvement, and how to help
1067 every child achieve optimal learning in basic academic subjects; and

1068 (g) ensure that the local school board meets the data collection and reporting standards
1069 described in Section [53E-3-501](#).

1070 (2) Local school boards shall spend Minimum School Program funds for programs and
1071 activities for which the state board has established minimum standards or rules under Section
1072 [53E-3-501](#).

1073 (3) (a) A local school board may purchase, sell, and make improvements on school
1074 sites, buildings, and equipment and construct, erect, and furnish school buildings.

1075 (b) School sites or buildings may only be conveyed or sold on local school board
1076 resolution affirmed by at least two-thirds of the members.

1077 (4) (a) A local school board may participate in the joint construction or operation of a

1078 school attended by children residing within the district and children residing in other districts
1079 either within or outside the state.

1080 (b) Any agreement for the joint operation or construction of a school shall:

1081 (i) be signed by the president of the local school board of each participating district;

1082 (ii) include a mutually agreed upon pro rata cost; and

1083 (iii) be filed with the state board.

1084 (5) A local school board may establish, locate, and maintain elementary, secondary,
1085 and applied technology schools.

1086 (6) Except as provided in Section [53E-3-905](#), a local school board may enroll children
1087 in school who are at least five years of age before September 2 of the year in which admission
1088 is sought.

1089 (7) A local school board may establish and support school libraries.

1090 (8) A local school board may collect damages for the loss, injury, or destruction of
1091 school property.

1092 (9) A local school board may authorize guidance and counseling services for children
1093 and their parents before, during, or following enrollment of the children in schools.

1094 (10) (a) A local school board shall administer and implement federal educational
1095 programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National
1096 Education Programs.

1097 (b) Federal funds are not considered funds within the school district budget under
1098 Chapter 7, Part 3, Budgets.

1099 (11) (a) A local school board may organize school safety patrols and adopt policies
1100 under which the patrols promote student safety.

1101 (b) A student appointed to a safety patrol shall be at least 10 years old and have written
1102 parental consent for the appointment.

1103 (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion
1104 of a highway intended for vehicular traffic use.

1105 (d) Liability may not attach to a school district, its employees, officers, or agents or to a
1106 safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting
1107 the program by virtue of the organization, maintenance, or operation of a school safety patrol.

1108 (12) (a) A local school board may on its own behalf, or on behalf of an educational

1109 institution for which the local school board is the direct governing body, accept private grants,
1110 loans, gifts, endowments, devises, or bequests that are made for educational purposes.

1111 (b) These contributions are not subject to appropriation by the Legislature.

1112 (13) (a) A local school board may appoint and fix the compensation of a compliance
1113 officer to issue citations for violations of Subsection 76-10-105(2)(b).

1114 (b) A person may not be appointed to serve as a compliance officer without the
1115 person's consent.

1116 (c) A teacher or student may not be appointed as a compliance officer.

1117 (14) A local school board shall adopt bylaws and policies for the local school board's
1118 own procedures.

1119 (15) (a) A local school board shall make and enforce policies necessary for the control
1120 and management of the district schools.

1121 (b) Local school board policies shall be in writing, filed, and referenced for public
1122 access.

1123 (16) A local school board may hold school on legal holidays other than Sundays.

1124 (17) (a) A local school board shall establish for each school year a school traffic safety
1125 committee to implement this Subsection (17).

1126 (b) The committee shall be composed of one representative of:

1127 (i) the schools within the district;

1128 (ii) the Parent Teachers' Association of the schools within the district;

1129 (iii) the municipality or county;

1130 (iv) state or local law enforcement; and

1131 (v) state or local traffic safety engineering.

1132 (c) The committee shall:

1133 (i) receive suggestions from school community councils, parents, teachers, and others
1134 and recommend school traffic safety improvements, boundary changes to enhance safety, and
1135 school traffic safety program measures;

1136 (ii) review and submit annually to the Department of Transportation and affected
1137 municipalities and counties a child access routing plan for each elementary, middle, and junior
1138 high school within the district;

1139 (iii) consult the Utah Safety Council and the Division of Family Health Services and

1140 provide training to all school children in kindergarten through grade 6, within the district, on
1141 school crossing safety and use; and

1142 (iv) help ensure the district's compliance with rules made by the Department of
1143 Transportation under Section [41-6a-303](#).

1144 (d) The committee may establish subcommittees as needed to assist in accomplishing
1145 its duties under Subsection (17)(c).

1146 (18) (a) A local school board shall adopt and implement a comprehensive emergency
1147 response plan to prevent and combat violence in the local school board's public schools, on
1148 school grounds, on its school vehicles, and in connection with school-related activities or
1149 events.

1150 (b) The plan shall:

1151 (i) include prevention, intervention, and response components;

1152 (ii) be consistent with the student conduct and discipline policies required for school
1153 districts under Chapter 11, Part 2, Miscellaneous Requirements;

1154 (iii) require professional learning for all district and school building staff on what their
1155 roles are in the emergency response plan;

1156 (iv) provide for coordination with local law enforcement and other public safety
1157 representatives in preventing, intervening, and responding to violence in the areas and activities
1158 referred to in Subsection (18)(a); and

1159 (v) include procedures to notify a student, to the extent practicable, who is off campus
1160 at the time of a school violence emergency because the student is:

1161 (A) participating in a school-related activity; or

1162 (B) excused from school for a period of time during the regular school day to
1163 participate in religious instruction at the request of the student's parent.

1164 (c) The state board, through the state superintendent, shall develop comprehensive
1165 emergency response plan models that local school boards may use, where appropriate, to
1166 comply with Subsection (18)(a).

1167 (d) A local school board shall, by July 1 of each year, certify to the state board that its
1168 plan has been practiced at the school level and presented to and reviewed by its teachers,
1169 administrators, students, and their parents and local law enforcement and public safety
1170 representatives.

1171 (19) (a) A local school board may adopt an emergency response plan for the treatment
1172 of sports-related injuries that occur during school sports practices and events.

1173 (b) The plan may be implemented by each secondary school in the district that has a
1174 sports program for students.

1175 (c) The plan may:

1176 (i) include emergency personnel, emergency communication, and emergency
1177 equipment components;

1178 (ii) require professional learning on the emergency response plan for school personnel
1179 who are involved in sports programs in the district's secondary schools; and

1180 (iii) provide for coordination with individuals and agency representatives who:

1181 (A) are not employees of the school district; and

1182 (B) would be involved in providing emergency services to students injured while
1183 participating in sports events.

1184 (d) The local school board, in collaboration with the schools referred to in Subsection
1185 (19)(b), may review the plan each year and make revisions when required to improve or
1186 enhance the plan.

1187 (e) The state board, through the state superintendent, shall provide local school boards
1188 with an emergency plan response model that local school boards may use to comply with the
1189 requirements of this Subsection (19).

1190 (20) A local school board shall do all other things necessary for the maintenance,
1191 prosperity, and success of the schools and the promotion of education.

1192 (21) (a) Before closing a school or changing the boundaries of a school, a local school
1193 board shall:

1194 (i) at least 120 days before approving the school closure or school boundary change,
1195 provide notice to the following that the local school board is considering the closure or
1196 boundary change:

1197 (A) parents of students enrolled in the school, using the same form of communication
1198 the local school board regularly uses to communicate with parents;

1199 (B) parents of students enrolled in other schools within the school district that may be
1200 affected by the closure or boundary change, using the same form of communication the local
1201 school board regularly uses to communicate with parents; and

1202 (C) the governing council and the mayor of the municipality in which the school is
1203 located;

1204 (ii) provide an opportunity for public comment on the proposed school closure or
1205 school boundary change during at least two public local school board meetings; and

1206 (iii) hold a public hearing as defined in Section [10-9a-103](#) and provide public notice of
1207 the public hearing as described in Subsection (21)(b).

1208 (b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

1209 (i) indicate the:

1210 (A) school or schools under consideration for closure or boundary change; and
1211 (B) the date, time, and location of the public hearing;

1212 (ii) at least 10 days before the public hearing, be:

1213 (A) published:

1214 (I) in a newspaper of general circulation in the area; and
1215 (II) on the Utah Public Notice Website created in Section [63F-1-701](#); and

1216 (B) posted in at least three public locations within the municipality in which the school
1217 is located on the school district's official website, and prominently at the school; and

1218 (iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be
1219 provided as described in Subsections (21)(a)(i)(A), (B), and (C).

1220 (22) A local school board may implement a facility energy efficiency program
1221 established under Title 11, Chapter 44, Performance Efficiency Act.

1222 (23) A local school board may establish or partner with a certified youth court
1223 program, in accordance with Section [78A-6-1203](#), or establish or partner with a comparable
1224 restorative justice program, in coordination with schools in that district. A school may refer a
1225 student to youth court or a comparable restorative justice program in accordance with Section
1226 [53G-8-211](#).

1227 Section 26. Section [53G-8-209](#) is amended to read:

1228 **53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of**
1229 **violations -- Limitation of liability.**

1230 (1) The Legislature recognizes that:

1231 (a) participation in student government and extracurricular activities may confer
1232 important educational and lifetime benefits upon students, and encourages school districts and

1233 charter schools to provide a variety of opportunities for all students to participate in such
1234 activities in meaningful ways;

1235 (b) there is no constitutional right to participate in these types of activities, and does
1236 not through this section or any other provision of law create such a right;

1237 (c) students who participate in student government and extracurricular activities,
1238 particularly competitive athletics, and the adult coaches, advisors, and assistants who direct
1239 those activities, become role models for others in the school and community;

1240 (d) these individuals often play major roles in establishing standards of acceptable
1241 behavior in the school and community, and establishing and maintaining the reputation of the
1242 school and the level of community confidence and support afforded the school; and

1243 (e) it is of the utmost importance that those involved in student government, whether as
1244 officers or advisors, and those involved in competitive athletics and related activities, whether
1245 students or staff, comply with all applicable laws and standards of behavior and conduct
1246 themselves at all times in a manner befitting their positions and responsibilities.

1247 (2) (a) The state board may, and local school boards and charter school governing
1248 boards shall, adopt rules or policies implementing this section that apply to both students and
1249 staff.

1250 (b) The rules or policies described in Subsection (2)(a) shall include prohibitions
1251 against the following types of conduct in accordance with Section 53G-8-211, while in the
1252 classroom, on school property, during school sponsored activities, or regardless of the location
1253 or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i)
1254 through (iv):

1255 (i) use of foul, abusive, or profane language while engaged in school related activities;

1256 (ii) illicit use, possession, or distribution of controlled substances or drug
1257 paraphernalia, and the use, possession, or distribution of an electronic cigarette product or a
1258 nicotine product as those terms are defined in Section 76-10-101, tobacco, or alcoholic
1259 beverages contrary to law; and

1260 (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including
1261 behavior involving physical violence, restraint, improper touching, or inappropriate exposure
1262 of body parts not normally exposed in public settings, forced ingestion of any substance, or any
1263 act which would constitute a crime against a person or public order under [Utah] state law.

1264 (3) (a) School employees who reasonably believe that a violation of this section may
1265 have occurred shall immediately report that belief to the school principal, district
1266 superintendent, or chief administrative officer of a charter school.

1267 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the
1268 alleged incident, and actions taken in response, to the district superintendent or the
1269 superintendent's designee within 10 working days after receipt of the report.

1270 (c) Failure of a person holding a professional certificate to report as required under this
1271 Subsection (3) constitutes an unprofessional practice.

1272 (4) Limitations of liability set forth under Section 53G-8-405 apply to this section.
1273 Section 27. Section 59-14-102 is amended to read:

1274 **59-14-102. Definitions.**

1275 As used in this chapter:

1276 (1) "Alternative nicotine product" means the same as that term is defined in Section
1277 76-10-101.

1278 ~~[(+)]~~ (2) "Cigarette" means a roll for smoking made wholly or in part of tobacco:

1279 (a) regardless of:

1280 (i) the size of the roll;

1281 (ii) the shape of the roll; or

1282 (iii) whether the tobacco is ~~[(A)]~~ flavored ~~[(B)]~~, adulterated ~~[(C)]~~, or mixed with
1283 any other ingredient; and

1284 (b) if the wrapper or cover of the roll is made of paper or any other substance or
1285 material except tobacco.

1286 ~~[(2)]~~ (3) "Cigarette rolling machine" means a device or machine that has the capability
1287 to produce at least 150 cigarettes in less than 30 minutes.

1288 ~~[(3)]~~ (4) "Cigarette rolling machine operator" means a person who:

1289 (a) (i) controls, leases, owns, possesses, or otherwise has available for use a cigarette
1290 rolling machine; and

1291 (ii) makes the cigarette rolling machine available for use by another person to produce
1292 a cigarette; or

1293 (b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.

1294 ~~[(4)]~~ (5) "Consumer" means a person that is not required:

- 1295 (a) under Section 59-14-201 to obtain a license under Section 59-14-202; ~~[or]~~
 1296 (b) under Section 59-14-301 to obtain a license under Section 59-14-202~~[-];~~ or
 1297 (c) to obtain a license under Section 59-14-803.
- 1298 ~~[(5)]~~ (6) "Counterfeit cigarette" means:
 1299 (a) a cigarette that has a false manufacturing label; or
 1300 (b) a package of cigarettes bearing a counterfeit tax stamp.
- 1301 (7) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.
 1302 (8) "Electronic cigarette product" means the same as that term is defined in Section
 1303 76-10-101.
- 1304 (9) "Electronic cigarette substance" means the same as that term is defined in Section
 1305 76-10-101.
- 1306 ~~[(6)]~~ (10) "Importer" means a person ~~[who]~~ that imports into the United States, either
 1307 directly or indirectly, a finished cigarette for sale or distribution.
- 1308 ~~[(7)]~~ (11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity,
 1309 or any other person doing business as a distributor or retailer of cigarettes on tribal lands
 1310 located in the state.
- 1311 ~~[(8)]~~ (12) "Little cigar" means a roll for smoking that:
 1312 (a) is made wholly or in part of tobacco;
 1313 (b) ~~[that]~~ uses an integrated cellulose acetate filter or other similar filter; and
 1314 (c) ~~[that]~~ is wrapped in a substance:
 1315 (i) containing tobacco; and
 1316 (ii) that is not exclusively natural leaf tobacco.
- 1317 ~~[(9)]~~ (13) (a) Except as provided in Subsection ~~[(9)]~~ (13)(b), "manufacturer" means a
 1318 person ~~[who]~~ that:
 1319 (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette~~[-];~~ or
 1320 (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels,
 1321 repackages, relabels, or imports an electronic cigarette product or a nicotine product.
- 1322 (b) "Manufacturer" does not include a cigarette rolling machine operator.
- 1323 ~~[(10)]~~ (14) "Moist snuff" means tobacco that:
 1324 (a) is finely~~[-(i)]~~ cut~~[-(ii)]~~, ground~~[-or-(iii)]~~, or powdered;
 1325 (b) has at least 45% moisture content, as determined by the commission by rule made

1326 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1327 (c) is not intended to be:

1328 (i) smoked; or

1329 (ii) placed in the nasal cavity; and

1330 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or
1331 distributed in single-use units, including:

1332 (i) tablets;

1333 (ii) lozenges;

1334 (iii) strips;

1335 (iv) sticks; or

1336 (v) packages containing multiple single-use units.

1337 (15) "Nicotine" means the same as that term is defined in Section 76-10-101.

1338 (16) "Prefilled electronic cigarette" means the same as that term is defined in Section
1339 76-10-101.

1340 (17) "Prefilled nontherapeutic nicotine device" means the same as that term is defined
1341 in Section 76-10-101.

1342 [~~(11)~~] (18) "Retailer" means a person that:

1343 (a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product
1344 to a consumer in the state; or

1345 (b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine
1346 product to a consumer in the state.

1347 [~~(12)~~] (19) "Stamp" means the indicia required to be placed on a cigarette package that
1348 evidences payment of the tax on cigarettes required by Section 59-14-205.

1349 [~~(13)~~] (20) (a) "Tobacco product" means a product made of, or containing, tobacco.

1350 (b) "Tobacco product" includes:

1351 (i) a cigarette produced from a cigarette rolling machine;

1352 (ii) a little cigar; or

1353 (iii) moist snuff.

1354 (c) "Tobacco product" does not include a cigarette.

1355 [~~(14)~~] (21) "Tribal lands" means land held by the United States in trust for a federally
1356 recognized Indian tribe.

1357 Section 28. Section **59-14-104** is enacted to read:

1358 **59-14-104. Rate reduction for modified risk tobacco products.**

1359 (1) Beginning July 1, 2021, the tax imposed under this chapter is reduced in
1360 accordance with Subsection (2):

1361 (a) on the first day of a calendar quarter; and

1362 (b) after a 90-day period beginning on the day on which the commission receives a
1363 notice from the manufacturer of a product that has received a modified risk tobacco product
1364 order from the United States Food and Drug Administration.

1365 (2) The tax imposed under this chapter is reduced by:

1366 (a) 50% for any product that is issued a modified risk tobacco product order under 21
1367 U.S.C. Sec. 387k(g)(1); and

1368 (b) 25% for any product that is issued a modified risk tobacco product order under 21
1369 U.S.C. Sec. 387k(g)(2).

1370 Section 29. Section **59-14-302** is amended to read:

1371 **59-14-302. Tax basis -- Rates.**

1372 (1) As used in this section:

1373 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco
1374 product charges after subtracting a discount.

1375 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,
1376 regardless of:

1377 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

1378 (ii) who pays the original Utah destination freight charge.

1379 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

1380 (3) (a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid
1381 by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

1382 (b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling
1383 machine shall be paid by the cigarette rolling machine operator.

1384 (4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced
1385 from a cigarette rolling machine, the [~~rate~~] amount of the tax under this section is .86
1386 multiplied by the manufacturer's sales price.

1387 (5) (a) Subject to Subsection (5)(b), the tax under this section on moist snuff is

1388 imposed:

1389 (i) at a rate of \$1.83 per ounce; and

1390 (ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.

1391 (b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce,

1392 a proportionate amount of the tax described in Subsection (5)(a) is imposed:

1393 (i) on that fractional part of one ounce; and

1394 (ii) in accordance with rules made by the commission in accordance with Title 63G,

1395 Chapter 3, Utah Administrative Rulemaking Act.

1396 (6) (a) A little cigar is taxed at the same tax rates as a cigarette is taxed under

1397 Subsection 59-14-204(2).

1398 (b) (i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling

1399 machine is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

1400 (ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced

1401 from the cigarette rolling machine.

1402 (7) (a) Moisture content of a tobacco product is determined at the time of packaging.

1403 (b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

1404 (i) for a period of three years after the last day on which the manufacturer distributes

1405 the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of

1406 the tobacco product available for review by the commission, upon demand; and

1407 (ii) provide a document, to the person described in Subsection (3) to whom the

1408 manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco

1409 product, as verified by the scientific evidence described in Subsection (7)(b)(i).

1410 (c) A manufacturer who fails to comply with the requirements of Subsection (7)(b) is

1411 liable for the nonpayment or underpayment of taxes on the tobacco product by a person who

1412 relies, in good faith, on the document described in Subsection (7)(b)(ii).

1413 (d) A person described in Subsection (3) who is required to pay tax on a tobacco

1414 product:

1415 (i) shall, for a period of three years after the last day on which the person pays the tax

1416 on the tobacco product, keep the document described in Subsection (7)(b)(ii) available for

1417 review by the commission, upon demand; and

1418 (ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due

1419 to the person's good faith reliance on the document described in Subsection (7)(b)(ii).

1420 Section 30. Section **59-14-703 (Effective 07/01/20)** is amended to read:

1421 **59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine**
1422 **operators -- Renewal of certification -- Requirements for certification or renewal of**
1423 **certification -- Denial.**

1424 (1) A cigarette rolling machine operator may not perform the following without first
1425 obtaining certification from the commission as provided in this part:

1426 (a) locate a cigarette rolling machine within this state;

1427 (b) make or offer to make a cigarette rolling machine available for use within this state;

1428 or

1429 (c) offer a cigarette for sale within this state if the cigarette is produced by:

1430 (i) the cigarette rolling machine operator; or

1431 (ii) another person at the location of the cigarette rolling machine operator's cigarette
1432 rolling machine.

1433 (2) A cigarette rolling machine operator shall renew its certification as provided in this
1434 section.

1435 (3) The commission shall prescribe a form for certifying a cigarette rolling machine
1436 operator under this part.

1437 (4) (a) A cigarette rolling machine operator shall apply to the commission for
1438 certification before the cigarette rolling machine operator performs an act described in
1439 Subsection (1) within the state for the first time.

1440 (b) A cigarette rolling machine operator shall apply to the commission for a renewal of
1441 certification on or before the earlier of:

1442 (i) December 31 of each year; or

1443 (ii) the day on which there is a change in any of the information the cigarette rolling
1444 machine operator provides on the form described in Subsection (3).

1445 (5) To obtain certification or renewal of certification under this section from the
1446 commission, a cigarette rolling machine operator shall:

1447 (a) identify:

1448 (i) the cigarette rolling machine operator's name and address;

1449 (ii) the location, make, and brand of the cigarette rolling machine operator's cigarette

1450 rolling machine; and

1451 (iii) each person from whom the cigarette rolling machine operator will purchase or be
1452 provided tobacco products that the cigarette rolling machine operator will use to produce
1453 cigarettes; and

1454 (b) certify, under penalty of perjury, that:

1455 (i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling
1456 machine, regardless of the tobacco's label or description, shall be only of a:

1457 (A) brand family listed on the commission's directory listing required by Section
1458 [59-14-603](#); and

1459 (B) tobacco product manufacturer listed on the commission's directory listing required
1460 by Section [59-14-603](#);

1461 (ii) the cigarette rolling machine operator shall prohibit another person who uses the
1462 cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or
1463 a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette
1464 rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);

1465 (iii) the cigarette rolling machine operator holds a current license issued in accordance
1466 with this chapter;

1467 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title
1468 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection
1469 Act;

1470 (v) the cigarette rolling machine shall be located in a separate and defined area where
1471 the cigarette rolling machine operator ensures that an individual younger than ~~[the age specified~~
1472 ~~in Subsection (6)]~~ 21 years old may not be:

1473 (A) present at any time; or

1474 (B) permitted to enter at any time; and

1475 (vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer,
1476 or sell cigarettes produced from a cigarette rolling machine in a quantity of less than 20
1477 cigarettes per retail transaction.

1478 ~~[(6) For purposes of Subsection (5), an individual is younger than:]~~

1479 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1480 ~~[(b) beginning July 1, 2021, 21 years old.]~~

1481 ~~[(7)]~~ (6) If the commission determines that a cigarette rolling machine operator meets
1482 the requirements for certification or renewal of certification under this section, the commission
1483 shall grant the certification or renewal of certification.

1484 ~~[(8)]~~ (7) If the commission determines that a cigarette rolling machine operator does
1485 not meet the requirements for certification or renewal of certification under this section, the
1486 commission shall:

1487 (a) deny the certification or renewal of certification; and

1488 (b) provide the cigarette rolling machine operator the grounds for denial of the
1489 certification or renewal of certification in writing.

1490 Section 31. Section **59-14-801** is amended to read:

1491 **Part 8. Electronic Cigarette and Nicotine Product Licensing and Taxation Act**
1492 **59-14-801. Title.**

1493 This part is known as the "Electronic Cigarette Product and Nicotine Product Licensing
1494 and Taxation Act."

1495 Section 32. Section **59-14-802** is amended to read:

1496 **59-14-802. Definitions.**

1497 As used in this part:

1498 ~~[(1) "Cigarette" means the same as that term is defined in Section 59-14-102.]~~

1499 ~~[(2) (a) "Electronic cigarette" means:]~~

1500 ~~[(i) an electronic device used to deliver or capable of delivering vapor containing~~
1501 ~~nicotine to an individual's respiratory system;]~~

1502 ~~[(ii) a component of the device described in Subsection (2)(a)(i); or]~~

1503 ~~[(iii) an accessory sold in the same package as the device described in Subsection~~
1504 ~~(2)(a)(i).]~~

1505 ~~[(b) "Electronic cigarette" includes an e-cigarette as defined in Section 26-38-2.]~~

1506 ~~[(3) "Electronic cigarette product" means an electronic cigarette or an electronic~~
1507 ~~cigarette substance.]~~

1508 ~~[(4) "Electronic cigarette substance" means any substance, including liquid containing~~
1509 ~~nicotine, used or intended for use in an electronic cigarette.]~~

1510 ~~[(5)]~~ (1) "Licensee" means a person that holds a valid license to sell an electronic
1511 cigarette [~~products~~] product or a nicotine product.

1512 ~~[(6) "License to sell an electronic cigarette product" means a license issued by the~~
1513 ~~commission under Subsection 59-14-803(3).]~~

1514 (2) (a) "Manufacturer's sales price" means the amount that the manufacturer of an
1515 electronic cigarette substance or a prefilled electronic cigarette charges after subtracting a
1516 discount.

1517 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,
1518 regardless of:

1519 (i) whether the electronic cigarette substance or prefilled electronic cigarette is shipped
1520 f.o.b. origin or f.o.b. destination; or

1521 (ii) who pays the original Utah destination freight charge.

1522 Section 33. Section **59-14-803** is amended to read:

1523 **59-14-803. License to sell electronic cigarette product or nicotine product.**

1524 (1) ~~[Except as provided in Subsection (2), a]~~ A person may not sell, offer to sell, or
1525 distribute an electronic cigarette product [in Utah] or an alternative nicotine product in this
1526 state without first:

1527 (a) except as provided in Subsection (2), obtaining a license from the commission
1528 under this section to sell an electronic cigarette product [from the commission under this
1529 section.] or an alternative nicotine product; and

1530 (b) complying with any bonding requirement described in Subsection (5).

1531 (2) A person that holds a valid license to sell cigarettes under Section ~~59-14-201~~^[5] or a
1532 person that holds a valid license to sell tobacco products under Section ~~59-14-301~~^[5] may,
1533 without obtaining a separate license ~~[to sell an electronic cigarette product under this part,]~~ in
1534 accordance with this section, sell, offer to sell, or distribute an electronic cigarette product ~~[in~~
1535 ~~Utah in accordance with this part]~~ or an alternative nicotine product in this state.

1536 (3) The commission shall issue a license to sell an electronic cigarette product or an
1537 alternative nicotine product to a person that submits an application, on a form created by the
1538 commission, that includes:

1539 (a) the person's name;

1540 (b) the address of the facility where the person will sell an electronic cigarette product
1541 or an alternative nicotine product; and

1542 (c) any other information the commission requires to implement this chapter.

1543 (4) A license described in Subsection (3) is:

1544 (a) valid only at one fixed business address;

1545 (b) valid for three years;

1546 (c) valid only for a physical location; and

1547 (d) renewable if a licensee meets the criteria for licensing described in Subsection (3).

1548 (5) (a) The commission shall require a manufacturer, jobber, distributor, wholesaler, or
1549 retailer that is responsible under this part for the collection of tax on an electronic cigarette
1550 substance, a prefilled electronic cigarette, or an alternative nicotine product to post a bond.

1551 (b) The manufacturer, jobber, distributor, wholesaler, or retailer may post the bond
1552 required by Subsection (5)(a) in combination with any bond required by Section [59-14-201](#) or
1553 [59-14-301](#).

1554 (c) Subject to Subsection (5)(d), the commission shall determine the form and amount
1555 of the bond.

1556 (d) The minimum amount of the bond shall be:

1557 (i) except as provided in Subsection (5)(d)(ii) or (iii), \$500;

1558 (ii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond
1559 required by Subsection (5)(a) in combination with a bond required by either Section [59-14-201](#)
1560 or [59-14-301](#), \$1,000; or

1561 (iii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond
1562 required by Subsection (5)(a) in combination with a bond required by both Sections [59-14-201](#)
1563 and [59-14-301](#), \$1,500.

1564 [~~5~~] (6) The commission may make rules in accordance with Title 63G, Chapter 3,
1565 Utah Administrative Rulemaking Act, to establish the additional information described in
1566 Subsection (3)(c) that a person [~~must~~] shall provide in the application described in Subsection
1567 (3).

1568 [~~6~~] (7) It is a class B misdemeanor for a person to violate Subsection (1).

1569 [~~7~~] (8) The commission may not charge a fee for a license under this section.
1570 Section 34. Section **59-14-804** is enacted to read:

1571 **59-14-804. Taxation of electronic cigarette substance, prefilled electronic**
1572 **cigarette, alternative nicotine product, nontherapeutic nicotine device substance, and**
1573 **prefilled nontherapeutic nicotine device.**

1574 (1) (a) Beginning on July 1, 2020, a tax is imposed upon the following:
1575 (i) an electronic cigarette substance; and
1576 (ii) a prefilled electronic cigarette.
1577 (b) Beginning on July 1, 2021, a tax is imposed upon an alternative nicotine product.
1578 (2) (a) The amount of tax levied under Subsection (1)(a) is .56 multiplied by the
1579 manufacturer's sales price.
1580 (b) (i) The tax described in Subsection (1)(b) on an alternative nicotine product is
1581 imposed:
1582 (A) at a rate of \$1.83 per ounce; and
1583 (B) on the basis of the net weight of the alternative nicotine product as listed by the
1584 manufacturer.
1585 (ii) If the net weight of the alternative nicotine product is in a quantity that is a
1586 fractional part of one ounce, a proportionate amount of the tax described in Subsection
1587 (2)(b)(i)(A) is imposed:
1588 (A) on that fractional part of one ounce; and
1589 (B) in accordance with rules made by the commission in accordance with Title 63G,
1590 Chapter 3, Utah Administrative Rulemaking Act.
1591 (3) If a product is sold in the same package as a product that is taxed under Subsection
1592 (1)(a), the tax described in Subsection (2)(a) shall apply to the wholesale manufacturer's sale
1593 price of the entire packaged product.
1594 (4) (a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall
1595 pay the tax levied under Subsection (1) at the time that an electronic cigarette substance, a
1596 prefilled electronic cigarette, or an alternative nicotine product is first received in the state.
1597 (b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not
1598 resell an electronic cigarette substance, a prefilled electronic cigarette, or an alternative nicotine
1599 product to another distributor, another retailer, or a consumer before paying the tax levied
1600 under Subsection (1).
1601 (5) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user
1602 shall remit the taxes collected in accordance with this section to the commission.
1603 (b) The commission shall deposit revenues generated by the tax imposed by this
1604 section into the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account

1605 created in Section 59-14-807.

1606 Section 35. Section **59-14-805** is enacted to read:

1607 **59-14-805. Remittance of tax -- Returns -- Invoice required -- Filing requirement--**
1608 **Exception -- Penalty -- Overpayment.**

1609 (1) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user
1610 that collects the tax imposed on an electronic cigarette substance, a prefilled electronic
1611 cigarette, or an alternative nicotine product shall remit to the commission, in an electronic
1612 format approved by the commission:

1613 (i) the tax collected in the previous calendar quarter; and

1614 (ii) the quarterly tax return.

1615 (b) The tax collected and the return are due on or before the last day of April, July,
1616 October, and January.

1617 (2) (a) A manufacturer, jobber, distributor, wholesaler, retailer, or any other person
1618 selling an electronic cigarette substance, a prefilled electronic cigarette, or an alternative
1619 nicotine product to a person other than the ultimate consumer shall furnish the purchaser with
1620 an itemized invoice showing:

1621 (i) the seller's name and address;

1622 (ii) the name and address of the purchaser;

1623 (iii) the date of sale;

1624 (iv) the name and price of the product; and

1625 (v) the discount, if any.

1626 (b) The invoice shall show whether the price includes the tax.

1627 (c) The seller and the purchaser shall retain copies of the invoice and make the invoice
1628 available for inspection at the request of the commission or the commission's agent for a period
1629 of three years following the sale.

1630 (3) (a) A consumer that purchases an untaxed electronic cigarette substance, a prefilled
1631 electronic cigarette, or an alternative nicotine product for use or other consumption shall:

1632 (i) file with the commission, on forms prescribed by the commission, a statement
1633 showing the quantity and description of the item subject to tax under this part; and

1634 (ii) pay the tax imposed by this part on that item.

1635 (b) The consumer shall file the statement described in Subsection (3)(a) and pay the tax

1636 due on or before the last day of the month immediately following the month during which the
1637 consumer purchased an untaxed electronic cigarette substance, a prefilled electronic cigarette,
1638 or an alternative nicotine product.

1639 (c) A consumer shall maintain records necessary to determine the amount of tax the
1640 consumer is liable to pay under this part for a period of three years following the date on which
1641 the statement required by this section was filed.

1642 (4) A tourist who imports an untaxed electronic cigarette substance, a prefilled
1643 electronic cigarette, or an alternative nicotine product into the state does not need to file the
1644 statement described in Subsection (3) or pay the tax if the item is for the tourist's own use or
1645 consumption while in this state.

1646 (5) In addition to the tax required by this part, a person shall pay a penalty as provided
1647 in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402,
1648 if a person subject to this section fails to:

1649 (a) pay the tax prescribed by this part;

1650 (b) pay the tax on time; or

1651 (c) file a return required by this part.

1652 (6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in
1653 the manner prescribed in Section 59-1-402.

1654 Section 36. Section 59-14-806 is enacted to read:

1655 **59-14-806. Refund of taxes paid -- Exemption for exported electronic cigarettes**
1656 **and nicotine products.**

1657 (1) When an electronic cigarette substance, a prefilled electronic cigarette, or an
1658 alternative nicotine product taxed under this chapter is sold and shipped to a regular dealer in
1659 those articles in another state, the seller in this state shall be entitled to a refund of the actual
1660 amount of the taxes paid, upon condition that the seller in this state:

1661 (a) is a licensed dealer;

1662 (b) signs an affidavit that the electronic cigarette substance, the prefilled electronic
1663 cigarette, or the alternative nicotine product was sold and shipped to a regular dealer in those
1664 articles in another state;

1665 (c) furnishes, from the purchaser, a written acknowledgment that the purchaser has
1666 received the electronic cigarette substance, the prefilled electronic cigarette, or the alternative

1667 nicotine product; and

1668 (d) reports the name and address of the purchaser.

1669 (2) A wholesaler or distributor in this state that exports an electronic cigarette
1670 substance, a prefilled electronic cigarette, or an alternative nicotine product to a regular dealer
1671 in those articles in another state shall be exempt from the payment of any tax under this chapter
1672 upon furnishing proof of the sale and exportation as the commission may require.

1673 Section 37. Section **59-14-807** is enacted to read:

1674 **59-14-807. Electronic Cigarette Substance and Nicotine Product Tax Restricted**

1675 **Account.**

1676 (1) There is created within the General Fund a restricted account known as the
1677 "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

1678 (2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account
1679 consists of:

1680 (a) revenues collected from the tax imposed by Section [59-14-804](#); and

1681 (b) amounts appropriated by the Legislature.

1682 (3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation
1683 by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette
1684 Substance and Nicotine Product Tax Restricted Account:

1685 (a) \$2,000,000 which shall be allocated to the local health departments by the
1686 Department of Health using the formula created in accordance with Section [26A-1-116](#);

1687 (b) \$2,000,000 to the Department of Health for statewide cessation programs and
1688 prevention education;

1689 (c) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed
1690 at disrupting organizations and networks that provide tobacco products, electronic cigarette
1691 products, nicotine products, and other illegal controlled substances to minors; and

1692 (d) \$3,000,000 which shall be allocated to the local health departments by the
1693 Department of Health using the formula created in accordance with Section [26A-1-116](#).

1694 (4) (a) The local health departments shall use the money received in accordance with
1695 Subsection (3)(a) for enforcing:

1696 (i) the regulation provisions described in Section [26-57-103](#);

1697 (ii) the labeling requirement described in Section [26-57-104](#); and

- 1698 (iii) the penalty provisions described in Section [26-62-305](#).
- 1699 (b) The Department of Health shall use the money received in accordance with
1700 Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention
1701 Program created in Section [26-7-10](#).
- 1702 (c) The local health department shall use the money received in accordance with
1703 Subsection (3)(d) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug
1704 Prevention Grant Program created in Section [26A-1-129](#).
- 1705 (5) (a) The fund shall earn interest.
- 1706 (b) All interest earned on fund money shall be deposited into the fund.
- 1707 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette
1708 Substance and Nicotine Product Tax Restricted Account after the distribution described in
1709 Subsection (3) may only be used for programs and activities related to the prevention and
1710 cessation of electronic cigarette, nicotine products, marijuana, and other drug use.
- 1711 Section 38. Section **59-14-808** is enacted to read:
- 1712 **59-14-808. Restrictions on mail order or Internet sales.**
- 1713 (1) For purposes of this section:
- 1714 (a) "Distributor" means a person, wherever residing or located, who:
- 1715 (i) is licensed in this state to purchase a non-taxed nicotine product or a non-taxed
1716 electronic cigarette product; and
- 1717 (ii) stores, sells, or otherwise disposes of a nicotine product or an electronic cigarette
1718 product.
- 1719 (b) "Licensed person" means the same as that term is defined in Section [59-14-409](#).
- 1720 (c) "Order or purchase" includes:
- 1721 (i) by mail or delivery service;
- 1722 (ii) through the Internet or computer network;
- 1723 (iii) by telephone; or
- 1724 (iv) through some other electronic method.
- 1725 (d) "Retailer" means any person who sells a nicotine product or an electronic cigarette
1726 product to consumers for personal consumption.
- 1727 (2) A person, distributor, manufacturer, or retailer shall not:
- 1728 (a) cause a nicotine product or an electronic cigarette product to be ordered or

- 1729 purchased by anyone other than a licensed person; or
- 1730 (b) knowingly provide substantial assistance to a person who violates this section.
- 1731 (3) (a) Each order or purchase of a nicotine product or an electronic cigarette product in
- 1732 violation of Subsection (2) constitutes a separate violation under this section.
- 1733 (b) In addition to the penalties in Subsection (4), a person who violates this section is
- 1734 subject to:
- 1735 (i) a civil penalty in an amount not to exceed \$5,000 for each violation of this section;
- 1736 (ii) an injunction to restrain a threatened or actual violation of this section; and
- 1737 (iii) recovery by the state for:
- 1738 (A) the costs of investigation;
- 1739 (B) the cost of expert witness fees;
- 1740 (C) the cost of the action; and
- 1741 (D) reasonable attorney's fees.
- 1742 (4) A person who knowingly violates this section has engaged in an unfair and
- 1743 deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act, and the court
- 1744 shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged
- 1745 and paid to the state treasurer for deposit in the General Fund.
- 1746 Section 39. Section **63I-1-226** is amended to read:
- 1747 **63I-1-226. Repeal dates, Title 26.**
- 1748 (1) Section 26-1-40 is repealed July 1, 2022.
- 1749 (2) Section 26-7-10 is repealed July 1, 2025.
- 1750 ~~[(2)]~~ (3) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed
- 1751 July 1, 2025.
- 1752 ~~[(3)]~~ (4) Section 26-10-11 is repealed July 1, 2020.
- 1753 ~~[(4)]~~ (5) Subsection 26-18-417(3) is repealed July 1, 2020.
- 1754 ~~[(5)]~~ (6) Subsection 26-18-418(2), the language that states "and the Mental Health
- 1755 Crisis Line Commission created in Section 63C-18-202" is repealed July 1, 2023.
- 1756 ~~[(6) Section 26-18-419.1 is repealed December 31, 2019.]~~
- 1757 (7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.
- 1758 (8) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.
- 1759 (9) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed

1760 July 1, 2024.

1761 (10) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

1762 (11) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
1763 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.

1764 (12) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative
1765 Liaison Committee, is repealed July 1, 2022.

1766 (13) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed
1767 July 1, 2026.

1768 Section 40. Section 76-8-311.3 is amended to read:

1769 **76-8-311.3. Items prohibited in correctional and mental health facilities --**
1770 **Penalties.**

1771 (1) As used in this section:

1772 (a) "Contraband" means any item not specifically prohibited for possession by
1773 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

1774 (b) "Controlled substance" means any substance defined as a controlled substance
1775 under Title 58, Chapter 37, Utah Controlled Substances Act.

1776 (c) "Correctional facility" means:

1777 (i) any facility operated by or contracting with the Department of Corrections to house
1778 offenders in either a secure or nonsecure setting;

1779 (ii) any facility operated by a municipality or a county to house or detain criminal
1780 offenders;

1781 (iii) any juvenile detention facility; and

1782 (iv) any building or grounds appurtenant to the facility or lands granted to the state,
1783 municipality, or county for use as a correctional facility.

1784 (d) "Electronic cigarette product" [~~is as~~] means the same as that term is defined in
1785 Section 76-10-101.

1786 (e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b,
1787 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,
1788 Chapter 37, Utah Controlled Substances Act.

1789 (f) "Mental health facility" [~~is as~~] means the same as that term is defined in Section
1790 62A-15-602.

1791 (g) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).

1792 [~~(g)~~] (h) "Offender" means a person in custody at a correctional facility.

1793 [~~(h)~~] (i) "Secure area" [~~is as~~] means the same as that term is defined in Section

1794 [76-8-311.1](#).

1795 (2) Notwithstanding Section [76-10-500](#), a correctional or mental health facility may
1796 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,
1797 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any
1798 quantity may be:

1799 (a) transported to or upon a correctional or mental health facility;

1800 (b) sold or given away at any correctional or mental health facility;

1801 (c) given to or used by any offender at a correctional or mental health facility; or

1802 (d) knowingly or intentionally possessed at a correctional or mental health facility.

1803 (3) It is a defense to any prosecution under this section if the accused in committing the
1804 act made criminal by this section with respect to:

1805 (a) a correctional facility operated by the Department of Corrections, acted in
1806 conformity with departmental rule or policy;

1807 (b) a correctional facility operated by a municipality, acted in conformity with the
1808 policy of the municipality;

1809 (c) a correctional facility operated by a county, acted in conformity with the policy of
1810 the county; or

1811 (d) a mental health facility, acted in conformity with the policy of the mental health
1812 facility.

1813 (4) (a) Any [~~person~~] individual who transports to or upon a correctional facility, or into
1814 a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or
1815 implement of escape with intent to provide or sell it to any offender, is guilty of a second
1816 degree felony.

1817 (b) Any [~~person~~] individual who provides or sells to any offender at a correctional
1818 facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition,
1819 dangerous weapon, or implement of escape is guilty of a second degree felony.

1820 (c) Any offender who possesses at a correctional facility, or any detainee who
1821 possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous

1822 weapon, or implement of escape is guilty of a second degree felony.

1823 (d) Any [~~person~~] individual who, without the permission of the authority operating the
1824 correctional facility or the secure area of a mental health facility, knowingly possesses at a
1825 correctional facility or a secure area of a mental health facility any firearm, ammunition,
1826 dangerous weapon, or implement of escape is guilty of a third degree felony.

1827 (e) Any [~~person~~] individual violates Section 76-10-306 who knowingly or intentionally
1828 transports, possesses, distributes, or sells any explosive in a correctional facility or mental
1829 health facility.

1830 (5) (a) [~~A person~~] An individual is guilty of a third degree felony who, without the
1831 permission of the authority operating the correctional facility or secure area of a mental health
1832 facility, knowingly transports to or upon a correctional facility or into a secure area of a mental
1833 health facility any:

1834 (i) spirituous or fermented liquor;

1835 (ii) medicine, whether or not lawfully prescribed for the offender; or

1836 (iii) poison in any quantity.

1837 (b) [~~A person~~] An individual is guilty of a third degree felony who knowingly violates
1838 correctional or mental health facility policy or rule by providing or selling to any offender at a
1839 correctional facility or detainee within a secure area of a mental health facility any:

1840 (i) spirituous or fermented liquor;

1841 (ii) medicine, whether or not lawfully prescribed for the offender; or

1842 (iii) poison in any quantity.

1843 (c) An inmate is guilty of a third degree felony who, in violation of correctional or
1844 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a
1845 mental health facility any:

1846 (i) spirituous or fermented liquor;

1847 (ii) medicine, other than medicine provided by the facility's health care providers in
1848 compliance with facility policy; or

1849 (iii) poison in any quantity.

1850 (d) [~~A person~~] An individual is guilty of a class A misdemeanor who, with the intent to
1851 directly or indirectly provide or sell any tobacco product [~~or~~], electronic cigarette product, or
1852 nicotine product to an offender, directly or indirectly:

1853 (i) transports, delivers, or distributes any tobacco product [~~or~~],² electronic cigarette
1854 product, or nicotine product to an offender or on the grounds of any correctional facility;

1855 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another
1856 person to transport any tobacco product [~~or~~],² electronic cigarette product, or nicotine product to
1857 an offender or on any correctional facility, if the person is acting with the mental state required
1858 for the commission of an offense; or

1859 (iii) facilitates, arranges, or causes the transport of any tobacco product [~~or~~],² electronic
1860 cigarette product, or nicotine product in violation of this section to an offender or on the
1861 grounds of any correctional facility.

1862 (e) [~~A person~~] An individual is guilty of a class A misdemeanor who, without the
1863 permission of the authority operating the correctional or mental health facility, fails to declare
1864 or knowingly possesses at a correctional facility or in a secure area of a mental health facility
1865 any:

1866 (i) spirituous or fermented liquor;

1867 (ii) medicine; or

1868 (iii) poison in any quantity.

1869 (f) (i) [~~A person~~] Except as provided in Subsection (5)(f)(ii), an individual is guilty of a
1870 class B misdemeanor who, without the permission of the authority operating the correctional
1871 facility, knowingly engages in any activity that would facilitate the possession of any
1872 contraband by an offender in a correctional facility.

1873 (ii) The provisions of Subsection (5)(d) regarding any tobacco product [~~or~~],² electronic
1874 cigarette product, or nicotine product take precedence over this Subsection (5)(f).

1875 (g) Exemptions may be granted for worship for Native American inmates pursuant to
1876 Section [64-13-40](#).

1877 (6) The possession, distribution, or use of a controlled substance at a correctional
1878 facility or in a secure area of a mental health facility shall be prosecuted in accordance with
1879 Title 58, Chapter 37, Utah Controlled Substances Act.

1880 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative
1881 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing
1882 any tobacco product or electronic cigarette to offenders is a class A misdemeanor.

1883 Section 41. Section **76-10-101** is amended to read:

1884 **76-10-101. Definitions.**

1885 As used in this part:

1886 (1) (a) "Alternative nicotine product" means a product, other than a cigarette, a
1887 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a
1888 tobacco product, that:

1889 (i) contains nicotine;

1890 (ii) is intended for human consumption;

1891 (iii) is not purchased with a prescription from a licensed physician; and

1892 (iv) is not approved by the United States Food and Drug Administration as nicotine
1893 replacement therapy.

1894 (b) "Alternative nicotine product" includes:

1895 (i) pure nicotine;

1896 (ii) snortable nicotine;

1897 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and

1898 (iv) nicotine-laced food and beverage.

1899 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that
1900 contains naturally occurring nicotine.

1901 ~~[(+)]~~ (2) "Cigar" means a product that contains nicotine, is intended to be burned under
1902 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in
1903 any substance containing tobacco, other than any roll of tobacco that is a cigarette [as described
1904 in Subsection (2)].

1905 ~~[(2)]~~ (3) "Cigarette" means a product that contains nicotine, is intended to be burned
1906 under ordinary conditions of use, and consists of:

1907 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

1908 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
1909 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to
1910 be offered to, or purchased by, consumers as a cigarette described in Subsection ~~[(2)]~~ (3)(a).

1911 ~~[(3)]~~ "Electronic cigarette" means an electronic cigarette product, as defined in Section
1912 59-14-802.]

1913 (4) (a) "Electronic cigarette" means:

1914 (i) any electronic oral device:

- 1915 (A) that provides an aerosol or a vapor of nicotine or other substance; and
1916 (B) which simulates smoking through its use or through inhalation of the device;
1917 (ii) a component of the device described in Subsection (4)(a)(i); and
1918 (iii) an accessory sold in the same package as the device described in Subsection
1919 (4)(a)(i).
- 1920 (b) "Electronic cigarette" includes an oral device that is:
1921 (i) composed of a heating element, battery, or electronic circuit; and
1922 (ii) marketed, manufactured, distributed, or sold as:
1923 (A) an e-cigarette;
1924 (B) an e-cigar;
1925 (C) an e-pipe; or
1926 (D) any other product name or descriptor, if the function of the product meets the
1927 definition of Subsection (4)(a).
- 1928 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
1929 substance, or a prefilled electronic cigarette.
- 1930 (6) "Electronic cigarette substance" means any substance, including liquid containing
1931 nicotine, used or intended for use in an electronic cigarette.
- 1932 (7) "Nicotine" means a poisonous, nitrogen containing chemical that is made
1933 synthetically or derived from tobacco or other plants.
- 1934 (8) "Nicotine product" means an alternative nicotine product or a nontherapeutic
1935 nicotine product.
- 1936 (9) (a) "Nontherapeutic nicotine device" means a device that:
1937 (i) has a pressurized canister that is used to administer nicotine to the user through
1938 inhalation or intranasally;
1939 (ii) is not purchased with a prescription from a licensed physician; and
1940 (iii) is not approved by the United States Food and Drug Administration as nicotine
1941 replacement therapy.
- 1942 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a
1943 nontherapeutic nicotine nasal spray.
- 1944 (10) "Nontherapeutic nicotine device substance" means a substance that:
1945 (a) contains nicotine;

- 1946 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
1947 (c) is not purchased with a prescription from a licensed physician; and
1948 (d) is not approved by the United States Food and Drug Administration as nicotine
1949 replacement therapy.

1950 (11) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a
1951 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

1952 [~~4~~] (12) "Place of business" includes:

- 1953 (a) a shop;
1954 (b) a store;
1955 (c) a factory;
1956 (d) a public garage;
1957 (e) an office;
1958 (f) a theater;
1959 (g) a recreation hall;
1960 (h) a dance hall;
1961 (i) a poolroom;
1962 (j) a café;
1963 (k) a cafeteria;
1964 (l) a cabaret;
1965 (m) a restaurant;
1966 (n) a hotel;
1967 (o) a lodging house;
1968 (p) a streetcar;
1969 (q) a bus;
1970 (r) an interurban or railway passenger coach;
1971 (s) a waiting room; and
1972 (t) any other place of business.

1973 (13) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled
1974 with an electronic cigarette substance.

1975 (14) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device
1976 that is sold prefilled with a nontherapeutic nicotine device substance.

1977 ~~[(5)]~~ (15) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
1978 lighted smoking equipment.

1979 (16) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind
1980 that is used, intended for use, or designed for use to package, repackage, store, contain,
1981 conceal, ingest, inhale, or otherwise introduce a cigar, a cigarette, an electronic cigarette
1982 substance, a nontherapeutic nicotine device substance, or tobacco in any form into the human
1983 body.

1984 (b) "Tobacco paraphernalia" includes:

1985 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
1986 screens, permanent screens, hashish heads, or punctured metal bowls;

1987 (ii) water pipes;

1988 (iii) carburetion tubes and devices;

1989 (iv) smoking and carburetion masks;

1990 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that
1991 has become too small or too short to be held in the hand;

1992 (vi) chamber pipes;

1993 (vii) carburetor pipes;

1994 (viii) electric pipes;

1995 (ix) air-driven pipes;

1996 (x) chillums;

1997 (xi) bongs; and

1998 (xii) ice pipes or chillers.

1999 (c) "Tobacco paraphernalia" does not include matches or lighters.

2000 (17) "Tobacco product" means:

2001 (a) a cigar;

2002 (b) a cigarette;

2003 (c) a tobacco product, including:

2004 (i) chewing tobacco; and

2005 (ii) any substitute for a tobacco product, including flavoring or additives to tobacco;

2006 and

2007 (d) tobacco paraphernalia.

2008 Section 42. Section **76-10-103 (Effective 07/01/20)** is amended to read:
2009 **76-10-103 (Effective 07/01/20). Permitting minors to use tobacco products,**
2010 **electronic cigarette products, or nicotine products in place of business.**
2011 It is a class C misdemeanor for the proprietor of any place of business to knowingly
2012 permit an individual under ~~[the following ages]~~ 21 years old to frequent a place of business
2013 while the individual is using ~~[tobacco:]~~ a tobacco product, an electronic cigarette product, or a
2014 nicotine product.

2015 ~~[(1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~
2016 ~~[(2) beginning July 1, 2021, under 21 years old.]~~

2017 Section 43. Section **76-10-104 (Effective 07/01/20)** is amended to read:
2018 **76-10-104 (Effective 07/01/20). Providing a cigar, a cigarette, an electronic**
2019 **cigarette product, a nicotine product, or tobacco to a minor -- Penalties.**

2020 ~~[(1) A person violates this section who knowingly, intentionally, recklessly, or with~~
2021 ~~criminal negligence provides a cigar, cigarette, electronic cigarette, or tobacco in any form, to~~
2022 ~~an individual under the following ages, is guilty of a class C misdemeanor on the first offense,~~
2023 ~~a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent~~
2024 ~~offenses:]~~

2025 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

2026 ~~[(b) beginning July 1, 2021, 21 years old.]~~

2027 ~~[(2)]~~ (1) As used in this section "provides":

2028 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

2029 (b) does not include the acts of the United States Postal Service or other common
2030 carrier when engaged in the business of transporting and delivering packages for others or the
2031 acts of a person, whether compensated or not, who transports or delivers a package for another
2032 person without any reason to know of the package's content.

2033 (2) An individual is guilty of a class C misdemeanor on the first offense, a class B
2034 misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses if the
2035 individual knowingly, intentionally, recklessly, or with criminal negligence provides a cigar, a
2036 cigarette, an electronic cigarette product, a nicotine product, or tobacco in any form to an
2037 individual who is under 21 years old.

2038 Section 44. Section **76-10-104.1 (Effective 07/01/20)** is amended to read:

2039 76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to a minor --

2040 Penalties.

2041 (1) For purposes of this section[?], "provides":

2042 [~~(a) "Provides":~~]

2043 [~~(i) (a) includes selling, giving, furnishing, sending, or causing to be sent; and~~

2044 [~~(ii) (b) does not include the acts of the United States Postal Service or other common~~
2045 carrier when engaged in the business of transporting and delivering packages for others or the
2046 acts of a person, whether compensated or not, who transports or delivers a package for another
2047 person without any reason to know of the package's content.

2048 [~~(b) "Tobacco paraphernalia": (i) means equipment, product, or material of any kind~~
2049 ~~that is used, intended for use, or designed for use to package, repackage, store, contain,~~
2050 ~~conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the~~
2051 ~~human body, including:]~~

2052 [~~(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without~~
2053 ~~screens, permanent screens, hashish heads, or punctured metal bowls;]~~

2054 [~~(B) water pipes;]~~

2055 [~~(C) carburetion tubes and devices;]~~

2056 [~~(D) smoking and carburetion masks;]~~

2057 [~~(E) roach clips, meaning objects used to hold burning material, such as a cigarette,~~
2058 ~~that has become too small or too short to be held in the hand;]~~

2059 [~~(F) chamber pipes;]~~

2060 [~~(G) carburetor pipes;]~~

2061 [~~(H) electric pipes;]~~

2062 [~~(I) air-driven pipes;]~~

2063 [~~(J) chillums;]~~

2064 [~~(K) bongs; and]~~

2065 [~~(L) ice pipes or chillers; and]~~

2066 [~~(ii) does not include matches or lighters.]~~

2067 (2) (a) It is unlawful for [~~a person~~] an individual to knowingly, intentionally,
2068 recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under[?]
2069 21 years old.

2070 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

2071 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

2072 (b) ~~[A person]~~ An individual who violates this section is guilty of a class C

2073 misdemeanor on the first offense and a class B misdemeanor on subsequent offenses.

2074 Section 45. Section **76-10-105 (Effective 07/01/20)** is amended to read:

2075 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, a cigarette, an**

2076 **electronic cigarette product, a nicotine product, or tobacco by a minor -- Penalty --**

2077 **Compliance officer authority -- Juvenile court jurisdiction.**

2078 (1) ~~[(a)]~~ An individual who is 18 years or older, but younger than ~~[the age specified in~~

2079 ~~Subsection (1)(b)]~~ 21 years old, and buys or attempts to buy, accepts, or has in the individual's

2080 possession any cigar, cigarette, electronic cigarette product, nicotine product, or tobacco in any

2081 form is guilty of an infraction and subject to:

2082 ~~[(i)]~~ (a) a minimum fine or penalty of \$60; and

2083 ~~[(ii)]~~ (b) participation in a court-approved tobacco education or cessation program,

2084 which may include a participation fee.

2085 ~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

2086 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

2087 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

2088 (2) (a) An individual under the age of 18 who buys or attempts to buy, accepts, or has

2089 in the individual's possession any cigar, cigarette, electronic cigarette product, nicotine product,

2090 or tobacco in any form is subject to the jurisdiction of the juvenile court and subject to Section

2091 [78A-6-602](#), unless the violation is committed on school property.

2092 (b) If a violation under this section is adjudicated under Section [78A-6-117](#), the minor

2093 may be subject to the following:

2094 ~~[(a)]~~ (i) a fine or penalty, in accordance with Section [78A-6-117](#); and

2095 ~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may

2096 include a participation fee.

2097 (3) (a) A compliance officer appointed by a board of education under Section

2098 [53G-4-402](#) may not issue a citation for a violation of this section committed on school

2099 property.

2100 (b) A cited violation committed on school property shall be addressed in accordance

2101 with Section [53G-8-211](#).

2102 ~~[(4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,~~
 2103 ~~electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older~~
 2104 ~~and is:]~~

2105 ~~[(i) on active duty in the United States Armed Forces; or]~~

2106 ~~[(ii) a spouse or dependent of an individual who is on active duty in the United States~~
 2107 ~~Armed Forces:]~~

2108 ~~[(b) A valid, government-issued military identification card is required to verify proof~~
 2109 ~~of age under Subsection (4)(a).]~~

2110 Section 46. Section **76-10-105.1 (Effective 07/01/20)** is amended to read:

2111 **76-10-105.1 (Effective 07/01/20). Requirement of direct, face-to-face sale of a**
 2112 **cigarette, tobacco, an electronic cigarette product, or a nicotine product -- Minors not**
 2113 **allowed in tobacco specialty shop -- Penalties.**

2114 (1) As used in this section:

2115 (a) "Cigarette" means the same as that term is defined in Section [59-14-102](#).

2116 (b) (i) "Face-to-face exchange" means a transaction made in person between an
 2117 individual and a retailer or retailer's employee.

2118 (ii) "Face-to-face exchange" does not include a sale through a:

2119 (A) vending machine; or

2120 (B) self-service display.

2121 (c) "Retailer" means a person who:

2122 (i) sells a cigarette, tobacco, ~~[or]~~ an electronic cigarette product, or a nicotine product
 2123 to an individual for personal consumption; or

2124 (ii) operates a facility with a vending machine that sells a cigarette, tobacco, ~~[or]~~ an
 2125 electronic cigarette product, or a nicotine product.

2126 (d) "Self-service display" means a display of a cigarette, tobacco, ~~[or]~~ an electronic
 2127 cigarette product, or a nicotine product to which the public has access without the intervention
 2128 of a retailer or retailer's employee.

2129 (e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

2130 (f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is
 2131 defined:

- 2132 (i) as it relates to a municipality, in Section 10-8-41.6; and
2133 (ii) as it relates to a county, in Section 17-50-333.
- 2134 (2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, [or] an
2135 electronic cigarette product, or a nicotine product only in a face-to-face exchange.
- 2136 (3) The face-to-face sale requirement in Subsection (2) does not apply to:
2137 (a) a mail-order, telephone, or Internet sale made in compliance with Section
2138 59-14-509;
- 2139 (b) a sale from a vending machine or self-service display that is located in an area of a
2140 retailer's facility:
2141 (i) that is distinct and separate from the rest of the facility; and
2142 (ii) where the retailer only allows an individual who complies with Subsection (4) to be
2143 present; or
2144 (c) a sale at a tobacco specialty shop.
- 2145 (4) ~~[(a)] An individual who is less than [the age specified in Subsection (4)(b)]~~ 21
2146 years old may not enter or be present at a tobacco specialty shop unless the individual is:
2147 ~~[(i)] (a) accompanied by a parent or legal guardian; or~~
2148 ~~[(ii)] (b) present at the tobacco shop for a bona fide commercial purpose other than to~~
2149 ~~purchase a cigarette, tobacco, [or] an electronic cigarette[; or] product, or a nicotine product.~~
2150 ~~[(iii) 18 years old or older and an active duty member of the United States Armed~~
2151 ~~Forces, as demonstrated by a valid, government-issued military identification card.]~~
2152 ~~[(b) For purposes of Subsection (4)(a), the individual is younger than:]~~
2153 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~
2154 ~~[(ii) beginning July 1, 2021, 21 years old.]~~
- 2155 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)~~[(i)]~~, an
2156 individual into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not
2157 allow the individual to purchase a cigarette, tobacco, [or] an electronic cigarette product, or a
2158 nicotine product.
- 2159 (6) A violation of Subsection (2) or (4) is a:
2160 (a) class C misdemeanor on the first offense;
2161 (b) class B misdemeanor on the second offense; and
2162 (c) class A misdemeanor on the third and all subsequent offenses.

2163 (7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor
2164 under Section 76-10-104.

2165 (8) (a) An ordinance, regulation, or rule adopted by the governing body of a political
2166 subdivision of the state or by a state agency that affects the sale, minimum age of sale,
2167 placement, or display of [~~cigarettes~~] a cigarette, tobacco, [~~or~~] an electronic [~~cigarettes~~
2168 cigarette product, or a nicotine product that is not essentially identical to this section and
2169 Section 76-10-102 is superseded.

2170 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use
2171 ordinance by a municipal or county government.

2172 Section 47. Section 76-10-111 is amended to read:

2173 **76-10-111. Restrictions on sale of smokeless tobacco or electronic cigarette**
2174 **products -- Exceptions.**

2175 (1) The Legislature finds that:

2176 (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who
2177 use those products because research indicates that they may cause mouth or oral cancers;

2178 (b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

2179 (c) the use of electronic [~~cigarettes~~] cigarette products may lead to unhealthy behavior
2180 such as the use of tobacco products; and

2181 (d) it is necessary to restrict the gift of the products described in this Subsection (1) in
2182 the interest of the health of the citizens of this state.

2183 (2) (a) Except as provided in Subsection (3), it is unlawful for a manufacturer,
2184 wholesaler, and retailer to:

2185 (i) give or distribute without charge any smokeless tobacco, chewing tobacco, or
2186 electronic cigarette product in this state[-];

2187 (ii) sell, offer for sale, or furnish any electronic cigarette product at less than 90% of
2188 the cost, including the amount of any applicable tax, of the product to the manufacturer,
2189 wholesaler, or retailer; or

2190 (iii) give, distribute, sell, offer for sale, or furnish any electronic cigarette product for
2191 free or at a lower price because the recipient of the electronic cigarette product makes another
2192 purchase.

2193 (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection

2194 (2)(a)(ii) does not include a discount for:

2195 (i) a physical manufacturer coupon:

2196 (A) that is surrendered to the wholesaler or retailer at the time of sale; and

2197 (B) for which the manufacturer will reimburse the wholesaler or the retailer for the full

2198 amount of the discount described in the manufacturer coupon and provided to the purchaser;

2199 (ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for the

2200 full amount of the rebate provided to the purchaser; or

2201 (iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the

2202 retailer for the full amount of the promotional fund provided to the purchaser.

2203 (c) Any [person] individual who violates this section is guilty of:

2204 (i) a class C misdemeanor for the first offense[~~, and is guilty of~~]; or

2205 (ii) a class B misdemeanor for any subsequent offense.

2206 (3) [~~a~~] Smokeless tobacco, chewing tobacco, or an electronic cigarette product may
2207 be distributed to adults without charge at professional conventions where the general public is
2208 excluded.

2209 [~~b~~] ~~Subsection (2) does not apply to a retailer, manufacturer, or distributor who gives~~
2210 ~~smokeless tobacco, chewing tobacco, or an electronic cigarette to a person of legal age upon~~
2211 ~~the person's purchase of another tobacco product or electronic cigarette.]~~

2212 Section 48. Section **77-39-101 (Effective 07/01/20)** is amended to read:

2213 **77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco, and**
2214 **electronic cigarette products to underage individuals.**

2215 (1) As used in this section[~~5~~]:

2216 (a) [~~"electronic"~~] "Electronic cigarette product" [is as] means the same as that term is
2217 defined in Section 76-10-101.

2218 (b) "Nicotine product" means the same as that term is defined in Section 76-10-101.

2219 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer

2220 Classifications, may investigate the possible violation of:

2221 (i) Section **32B-4-403** by requesting an individual under 21 years old to enter into and
2222 attempt to purchase or make a purchase of alcohol from a retail establishment; or

2223 (ii) Section **76-10-104** by requesting an individual under [~~the age specified in~~
2224 ~~Subsection (2)(c)] 21 years old to enter into and attempt to purchase or make a purchase from a~~

2225 retail establishment of:

2226 (A) a cigar;

2227 (B) a cigarette;

2228 (C) tobacco in any form; [or]

2229 (D) an electronic cigarette[-] product; or

2230 (E) a nicotine product.

2231 (b) A peace officer who is present at the site of a proposed purchase shall direct,
2232 supervise, and monitor the individual requested to make the purchase.

2233 (c) Immediately following a purchase or attempted purchase or as soon as practical the
2234 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
2235 establishment that the attempted purchaser was under the legal age to purchase:

2236 (i) alcohol; or

2237 (ii) (A) a cigar;

2238 (B) a cigarette;

2239 (C) tobacco in any form; [or]

2240 (D) an electronic cigarette[-] product; or

2241 (E) a nicotine product.

2242 (d) If a citation or information is issued, it shall be issued within seven days of the
2243 purchase.

2244 [~~(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:~~]

2245 [~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

2246 [~~(ii) beginning July 1, 2021, 21 years old.]~~

2247 (3) (a) If an individual under the age of 18 years old is requested to attempt a purchase,
2248 a written consent of that individual's parent or guardian shall be obtained prior to that
2249 individual participating in any attempted purchase.

2250 (b) An individual requested by the peace officer to attempt a purchase may:

2251 (i) be a trained volunteer; or

2252 (ii) receive payment, but may not be paid based on the number of successful purchases
2253 of alcohol, tobacco, [or] an electronic cigarette product, or a nicotine product.

2254 (4) The individual requested by the peace officer to attempt a purchase and anyone
2255 accompanying the individual attempting a purchase may not during the attempted purchase

2256 misrepresent the age of the individual by false or misleading identification documentation in
2257 attempting the purchase.

2258 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
2259 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
2260 purchase of, or possession of alcohol, a cigar, a cigarette, tobacco in any form, [or] an
2261 electronic cigarette product, or a nicotine product if a peace officer directs, supervises, and
2262 monitors the individual.

2263 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
2264 shall be conducted:

2265 (i) on a random basis; and

2266 (ii) within a 12-month period at any one retail establishment location not more often
2267 than:

2268 (A) two times for the attempted purchase of:

2269 (I) a cigar;

2270 (II) a cigarette;

2271 (III) tobacco in any form; [or]

2272 (IV) an electronic cigarette product; [and] or

2273 (V) a nicotine product; and

2274 (B) four times for the attempted purchase of alcohol.

2275 (b) This section does not prohibit an investigation or an attempt to purchase tobacco
2276 under this section if:

2277 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
2278 cigar, a cigarette, tobacco in any form, [or] an electronic cigarette product, or a nicotine product
2279 to an individual under the age established by Section [32B-4-403](#) or [76-10-104](#); and

2280 (ii) the supervising peace officer makes a written record of the grounds for the
2281 reasonable suspicion.

2282 (7) (a) The peace officer exercising direction, supervision, and monitoring of the
2283 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
2284 was made.

2285 (b) The report required by this Subsection (7) shall include:

2286 (i) the name of the supervising peace officer;

- 2287 (ii) the name of the individual attempting the purchase;
- 2288 (iii) a photograph of the individual attempting the purchase showing how that
- 2289 individual appeared at the time of the attempted purchase;
- 2290 (iv) the name and description of the cashier or proprietor from whom the individual
- 2291 attempted the purchase;
- 2292 (v) the name and address of the retail establishment; and
- 2293 (vi) the date and time of the attempted purchase.

2294 Section 49. **Effective date.**

2295 This bill takes effect on July 1, 2020.