

Senator Curtis S. Bramble proposes the following substitute bill:

CIGARETTE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies tax and criminal code provisions related to cigarettes.

Highlighted Provisions:

This bill:

- ▶ modifies the definitions of "cigarette" and "electronic cigarette."

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-14-102, as last amended by Laws of Utah 2020, Chapter 347

76-10-101, as last amended by Laws of Utah 2020, Chapters 12, 302, and 347

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

Section 1. Section **59-14-102** is amended to read:

59-14-102. Definitions.

As used in this chapter:



26 (1) "Alternative nicotine product" means the same as that term is defined in Section
27 76-10-101.

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

29 (a) regardless of:

30 (i) the size of the roll;

31 (ii) the shape of the roll; [~~or~~]

32 (iii) whether the tobacco is flavored, adulterated, or mixed with any other ingredient;

33 [~~and~~] or

34 (iv) whether the tobacco is heated or burned; and

35 (b) if the roll has a wrapper or cover [~~of the roll~~] that is made of paper or any other
36 substance or material except tobacco.

37 (3) "Cigarette rolling machine" means a device or machine that has the capability to
38 produce at least 150 cigarettes in less than 30 minutes.

39 (4) "Cigarette rolling machine operator" means a person who:

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

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

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

45 (5) "Consumer" means a person that is not required:

46 (a) under Section 59-14-201 to obtain a license under Section 59-14-202;

47 (b) under Section 59-14-301 to obtain a license under Section 59-14-202; or

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

49 (6) "Counterfeit cigarette" means:

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

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

52 (7) (a) "Electronic cigarette" means the same as that term is defined in Section
53 76-10-101.

54 (b) "Electronic cigarette" does not include a cigarette or a tobacco product.

55 (8) "Electronic cigarette product" means the same as that term is defined in Section
56 76-10-101.

57 (9) "Electronic cigarette substance" means the same as that term is defined in Section
58 76-10-101.

59 (10) "Importer" means a person that imports into the United States, either directly or
60 indirectly, a finished cigarette for sale or distribution.

61 (11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any
62 other person doing business as a distributor or retailer of cigarettes on tribal lands located in the
63 state.

64 (12) "Little cigar" means a roll for smoking that:

- 65 (a) is made wholly or in part of tobacco;
- 66 (b) uses an integrated cellulose acetate filter or other similar filter; and
- 67 (c) is wrapped in a substance:
 - 68 (i) containing tobacco; and
 - 69 (ii) that is not exclusively natural leaf tobacco.

70 (13) (a) Except as provided in Subsection (13)(b), "manufacturer" means a person that:

- 71 (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or
- 72 (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels,
73 repackages, relabels, or imports an electronic cigarette product or a nicotine product.

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

75 (14) "Moist snuff" means tobacco that:

- 76 (a) is finely cut, ground, or powdered;
- 77 (b) has at least 45% moisture content, as determined by the commission by rule made
78 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

79 (c) is not intended to be:

- 80 (i) smoked; or
- 81 (ii) placed in the nasal cavity; and

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

- 84 (i) tablets;
- 85 (ii) lozenges;
- 86 (iii) strips;
- 87 (iv) sticks; or

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

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

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

91 (17) "Nontherapeutic nicotine device" means the same as that term is defined in

92 Section 76-10-101.

93 (18) "Nontherapeutic nicotine device substance" means the same as that term is defined

94 in Section 76-10-101.

95 (19) "Nontherapeutic nicotine product" means the same as that term is defined in

96 Section 76-10-101.

97 (20) "Prefilled electronic cigarette" means the same as that term is defined in Section

98 76-10-101.

99 (21) "Prefilled nontherapeutic nicotine device" means the same as that term is defined

100 in Section 76-10-101.

101 (22) "Retailer" means a person that:

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

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

106 (23) "Stamp" means the indicia required to be placed on a cigarette package that
107 evidences payment of the tax on cigarettes required by Section 59-14-205.

108 (24) (a) "Tobacco product" means a product made of, or containing, tobacco.

109 (b) "Tobacco product" includes:

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

111 (ii) a little cigar; or

112 (iii) moist snuff.

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

114 (25) "Tribal lands" means land held by the United States in trust for a federally
115 recognized Indian tribe.

116 Section 2. Section 76-10-101 is amended to read:

117 **76-10-101. Definitions.**

118 As used in this part:

119 (1) (a) "Alternative nicotine product" means a product, other than a cigarette, a
120 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a
121 tobacco product, that:

122 (i) contains nicotine;

123 (ii) is intended for human consumption;

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

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

127 (b) "Alternative nicotine product" includes:

128 (i) pure nicotine;

129 (ii) snortable nicotine;

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

131 (iv) nicotine-laced food and beverage.

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

134 (2) "Cigar" means a product that contains nicotine, is intended to be burned under
135 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in
136 any substance containing tobacco, other than any roll of tobacco that is a cigarette.

137 (3) "Cigarette" means a product that contains nicotine, is intended to be heated or
138 burned under ordinary conditions of use, and consists of:

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

140 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
141 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to
142 be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).

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

144 (i) any electronic oral device:

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

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

147 (ii) a component of the device described in Subsection (4)(a)(i); or

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

149 (4)(a)(i).

- 150 (b) "Electronic cigarette" includes an oral device that is:
151 (i) composed of a heating element, battery, or electronic circuit; and
152 (ii) marketed, manufactured, distributed, or sold as:
153 (A) an e-cigarette;
154 (B) an e-cigar;
155 (C) an e-pipe; or
156 (D) any other product name or descriptor, if the function of the product meets the
157 definition of Subsection (4)(a).
- 158 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is
159 defined in Section [26-61a-102](#).
- 160 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
161 substance, or a prefilled electronic cigarette.
- 162 (6) "Electronic cigarette substance" means any substance, including liquid containing
163 nicotine, used or intended for use in an electronic cigarette.
- 164 (7) (a) "Flavored electronic cigarette product" means an electronic cigarette product
165 that has a taste or smell that is distinguishable by an ordinary consumer either before or during
166 use or consumption of the electronic cigarette product.
- 167 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that
168 has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic
169 beverage, herb, or spice.
- 170 (c) "Flavored electronic cigarette product" does not include an electronic cigarette
171 product that:
172 (i) has a taste or smell of only tobacco, mint, or menthol; or
173 (ii) has been approved by an order granting a premarket tobacco product application of
174 the electronic cigarette product by the United States Food and Drug Administration under 21
175 U.S.C. Sec. 387j(c)(1)(A)(i).
- 176 (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made
177 synthetically or derived from tobacco or other plants.
- 178 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic
179 nicotine product.
- 180 (10) (a) "Nontherapeutic nicotine device" means a device that:

181 (i) has a pressurized canister that is used to administer nicotine to the user through
182 inhalation or intranasally;

183 (ii) is not purchased with a prescription from a licensed physician; and

184 (iii) is not approved by the United States Food and Drug Administration as nicotine
185 replacement therapy.

186 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a
187 nontherapeutic nicotine nasal spray.

188 (11) "Nontherapeutic nicotine device substance" means a substance that:

189 (a) contains nicotine;

190 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;

191 (c) is not purchased with a prescription from a licensed physician; and

192 (d) is not approved by the United States Food and Drug Administration as nicotine
193 replacement therapy.

194 (12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a
195 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

196 (13) "Place of business" includes:

197 (a) a shop;

198 (b) a store;

199 (c) a factory;

200 (d) a public garage;

201 (e) an office;

202 (f) a theater;

203 (g) a recreation hall;

204 (h) a dance hall;

205 (i) a poolroom;

206 (j) a café;

207 (k) a cafeteria;

208 (l) a cabaret;

209 (m) a restaurant;

210 (n) a hotel;

211 (o) a lodging house;

212 (p) a streetcar;

213 (q) a bus;

214 (r) an interurban or railway passenger coach;

215 (s) a waiting room; and

216 (t) any other place of business.

217 (14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled
218 with an electronic cigarette substance.

219 (15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device
220 that is sold prefilled with a nontherapeutic nicotine device substance.

221 (16) "Retail tobacco specialty business" means the same as that term is defined in
222 Section [26-62-102](#).

223 (17) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
224 lighted smoking equipment.

225 (18) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind
226 that is used, intended for use, or designed for use to package, repackage, store, contain,
227 conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette
228 substance, or a nontherapeutic nicotine device substance into the human body.

229 (b) "Tobacco paraphernalia" includes:

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

232 (ii) water pipes;

233 (iii) carburetion tubes and devices;

234 (iv) smoking and carburetion masks;

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

237 (vi) chamber pipes;

238 (vii) carburetor pipes;

239 (viii) electric pipes;

240 (ix) air-driven pipes;

241 (x) chillums;

242 (xi) bongs; and

243 (xii) ice pipes or chillers.

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

245 (19) "Tobacco product" means:

246 (a) a cigar;

247 (b) a cigarette; or

248 (c) tobacco in any form, including:

249 (i) chewing tobacco; and

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

251 (20) "Tobacco retailer" means:

252 (a) a general tobacco retailer, as that term is defined in Section [26-62-102](#); or

253 (b) a retail tobacco specialty business.

254 Section 3. **Effective date.**

255 This bill takes effect on July 1, 2022.