

**UNFAIR PRACTICES ACT AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Norman K Thurston**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**Committee Note:**

The Business and Labor Interim Committee recommended this bill.

Legislative Vote: 15 voting for 0 voting against 6 absent

**General Description:**

This bill repeals the Unfair Practices Act.

**Highlighted Provisions:**

This bill:

- ▶ repeals the Unfair Practices Act;
- ▶ amends provisions related to the Unfair Practices Act; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**13-2-1 (Superseded 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201

**13-2-1 (Effective 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201 and

462

**41-3-201**, as last amended by Laws of Utah 2018, Chapter 387



28 59-14-509, as enacted by Laws of Utah 2009, Chapter 341

29 59-14-608, as enacted by Laws of Utah 2005, Chapter 204

30 59-14-808, as enacted by Laws of Utah 2020, Chapter 347

31 REPEALS:

32 13-5-1, Utah Code Annotated 1953

33 13-5-2, Utah Code Annotated 1953

34 13-5-2.5, as last amended by Laws of Utah 1987, Chapter 161

35 13-5-3, as last amended by Laws of Utah 2010, Chapter 378

36 13-5-4, Utah Code Annotated 1953

37 13-5-5, Utah Code Annotated 1953

38 13-5-6, Utah Code Annotated 1953

39 13-5-8, as last amended by Laws of Utah 1993, Chapter 4

40 13-5-9, as last amended by Laws of Utah 2008, Chapter 351

41 13-5-10, Utah Code Annotated 1953

42 13-5-11, Utah Code Annotated 1953

43 13-5-12, as last amended by Laws of Utah 2010, Chapter 378

44 13-5-13, Utah Code Annotated 1953

45 13-5-14, as last amended by Laws of Utah 1983, Chapter 58

46 13-5-15, as last amended by Laws of Utah 1983, Chapter 58

47 13-5-16, as last amended by Laws of Utah 2010, Chapter 378

48 13-5-17, Utah Code Annotated 1953

49 13-5-18, Utah Code Annotated 1953

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

52 Section 1. Section 13-2-1 (Superseded 12/31/23) is amended to read:

53 13-2-1 (Superseded 12/31/23). **Consumer protection division established --**

54 **Functions.**

55 (1) There is established within the Department of Commerce the Division of Consumer  
56 Protection.

57 (2) The division shall administer and enforce the following:

58 [~~(a) Chapter 5, Unfair Practices Act;~~]

59           ~~[(b)]~~ (a) Chapter 10a, Music Licensing Practices Act;  
60           ~~[(c)]~~ (b) Chapter 11, Utah Consumer Sales Practices Act;  
61           ~~[(d)]~~ (c) Chapter 15, Business Opportunity Disclosure Act;  
62           ~~[(e)]~~ (d) Chapter 20, New Motor Vehicle Warranties Act;  
63           ~~[(f)]~~ (e) Chapter 21, Credit Services Organizations Act;  
64           ~~[(g)]~~ (f) Chapter 22, Charitable Solicitations Act;  
65           ~~[(h)]~~ (g) Chapter 23, Health Spa Services Protection Act;  
66           ~~[(i)]~~ (h) Chapter 25a, Telephone and Facsimile Solicitation Act;  
67           ~~[(j)]~~ (i) Chapter 26, Telephone Fraud Prevention Act;  
68           ~~[(k)]~~ (j) Chapter 28, Prize Notices Regulation Act;  
69           ~~[(l)]~~ (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter  
70 Transaction Information Act;  
71           ~~[(m)]~~ (l) Chapter 34, Utah Postsecondary Proprietary School Act;  
72           ~~[(n)]~~ (m) Chapter 34a, Utah Postsecondary School State Authorization Act;  
73           ~~[(o)]~~ (n) Chapter 41, Price Controls During Emergencies Act;  
74           ~~[(p)]~~ (o) Chapter 42, Uniform Debt-Management Services Act;  
75           ~~[(q)]~~ (p) Chapter 49, Immigration Consultants Registration Act;  
76           ~~[(r)]~~ (q) Chapter 51, Transportation Network Company Registration Act;  
77           ~~[(s)]~~ (r) Chapter 52, Residential Solar Energy Disclosure Act;  
78           ~~[(t)]~~ (s) Chapter 53, Residential, Vocational and Life Skills Program Act;  
79           ~~[(u)]~~ (t) Chapter 54, Ticket Website Sales Act;  
80           ~~[(v)]~~ (u) Chapter 56, Ticket Transferability Act; and  
81           ~~[(w)]~~ (v) Chapter 57, Maintenance Funding Practices Act.

82           Section 2. Section **13-2-1 (Effective 12/31/23)** is amended to read:

83           **13-2-1 (Effective 12/31/23). Consumer protection division established --**

84           **Functions.**

85           (1) There is established within the Department of Commerce the Division of Consumer  
86 Protection.

87           (2) The division shall administer and enforce the following:

88           ~~[(a) Chapter 5, Unfair Practices Act,]~~

89           ~~[(b)]~~ (a) Chapter 10a, Music Licensing Practices Act;

- 90           ~~[(e)]~~ (b) Chapter 11, Utah Consumer Sales Practices Act;
- 91           ~~[(d)]~~ (c) Chapter 15, Business Opportunity Disclosure Act;
- 92           ~~[(e)]~~ (d) Chapter 20, New Motor Vehicle Warranties Act;
- 93           ~~[(f)]~~ (e) Chapter 21, Credit Services Organizations Act;
- 94           ~~[(g)]~~ (f) Chapter 22, Charitable Solicitations Act;
- 95           ~~[(h)]~~ (g) Chapter 23, Health Spa Services Protection Act;
- 96           ~~[(i)]~~ (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 97           ~~[(j)]~~ (i) Chapter 26, Telephone Fraud Prevention Act;
- 98           ~~[(k)]~~ (j) Chapter 28, Prize Notices Regulation Act;
- 99           ~~[(l)]~~ (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter

100 Transaction Information Act;

- 101           ~~[(m)]~~ (l) Chapter 34, Utah Postsecondary Proprietary School Act;
- 102           ~~[(n)]~~ (m) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 103           ~~[(o)]~~ (n) Chapter 41, Price Controls During Emergencies Act;
- 104           ~~[(p)]~~ (o) Chapter 42, Uniform Debt-Management Services Act;
- 105           ~~[(q)]~~ (p) Chapter 49, Immigration Consultants Registration Act;
- 106           ~~[(r)]~~ (q) Chapter 51, Transportation Network Company Registration Act;
- 107           ~~[(s)]~~ (r) Chapter 52, Residential Solar Energy Disclosure Act;
- 108           ~~[(t)]~~ (s) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 109           ~~[(u)]~~ (t) Chapter 54, Ticket Website Sales Act;
- 110           ~~[(v)]~~ (u) Chapter 56, Ticket Transferability Act;
- 111           ~~[(w)]~~ (v) Chapter 57, Maintenance Funding Practices Act; and
- 112           ~~[(x)]~~ (w) Chapter 61, Utah Consumer Privacy Act.

113 Section 3. Section **41-3-201** is amended to read:

114 **41-3-201. Licenses required -- Restitution -- Education.**

115 (1) As used in this section, "new applicant" means a person who is applying for a  
116 license that the person has not been issued during the previous licensing year.

117 (2) A person may not act as any of the following without having procured a license  
118 issued by the administrator:

- 119           (a) a dealer;
- 120           (b) salvage vehicle buyer;

- 121 (c) salesperson;
- 122 (d) manufacturer;
- 123 (e) transporter;
- 124 (f) dismantler;
- 125 (g) distributor;
- 126 (h) factory branch and representative;
- 127 (i) distributor branch and representative;
- 128 (j) crusher;
- 129 (k) remanufacturer; or
- 130 (l) body shop.

131 (3) (a) Except as provided in Subsection (3)(c), a person may not bid on or purchase a  
132 vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or  
133 through a motor vehicle auction unless the person is a licensed salvage vehicle buyer.

134 (b) Except as provided in Subsection (3)(c), a person may not offer for sale, sell, or  
135 exchange a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001  
136 at or through a motor vehicle auction except to a licensed salvage vehicle buyer.

137 (c) A person may offer for sale, sell, or exchange a vehicle with a nonrepairable or  
138 salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction:

139 (i) to an out-of-state or out-of-country purchaser not licensed under this section, but  
140 that is authorized to do business in the domestic or foreign jurisdiction in which the person is  
141 domiciled or registered to do business;

142 (ii) subject to the restrictions in Subsection (3)(d), to an in-state purchaser not licensed  
143 under this section that:

144 (A) has a valid business license in Utah; and

145 (B) has a Utah sales tax license; and

146 (iii) to a crusher.

147 (d) (i) An operator of a motor vehicle auction shall verify that an in-state purchaser not  
148 licensed under this section has the licenses required in Subsection (3)(c)(ii).

149 (ii) An operator of a motor vehicle auction may only offer for sale, sell, or exchange  
150 five vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a motor  
151 vehicle auction in any 12-month period to an in-state purchaser that does not have a salvage

152 vehicle buyer license issued in accordance with Subsection 41-3-202(17).

153 (iii) The five vehicle limitation under this Subsection (3)(d) applies to each Utah sales  
154 tax license and not to each person with the authority to use a sales tax license.

155 (iv) An operator of a motor vehicle auction may not sell a vehicle with a nonrepairable  
156 certificate as defined in Section 41-1a-1001 to a purchaser otherwise allowed to purchase a  
157 vehicle under Subsection (3)(c)(ii).

158 (e) For a vehicle with a salvage certificate purchased under Subsection (3)(c)(ii), an  
159 operator of a motor vehicle auction shall:

160 (i) (A) until Subsection (3)(e)(i)(B) applies, make application for a salvage certificate  
161 of title on behalf of the Utah purchaser within seven days of the purchase if the purchaser does  
162 not have a salvage vehicle buyer license, dealer license, body shop license, or dismantler  
163 license issued in accordance with Section 41-3-202; or

164 (B) beginning on or after the date that the Motor Vehicle Division has implemented the  
165 Motor Vehicle Division's GenTax system, make application electronically, in a form and time  
166 period approved by the Motor Vehicle Division, for a salvage certificate of title to be issued in  
167 the name of the purchaser;

168 (ii) give to the purchaser a disclosure printed on a separate piece of paper that states:

169 "THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE  
170 BUYER EVERY TIME THIS VEHICLE IS RESOLD WITH A SALVAGE CERTIFICATE  
171 Vehicle Identification Number (VIN)

172 Year: Make: Model:

173 SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

174 WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION  
175 UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION  
176 BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY  
177 REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT  
178 SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE  
179 CERTIFICATE OF TITLE.

180 \_\_\_\_\_  
181 Signature of Purchaser Date"; and

182 (iii) if applicable, provide evidence to the Motor Vehicle Division of:

183 (A) payment of sales taxes on taxable sales in accordance with Section 41-1a-510;

184 (B) the identification number inspection required under Section 41-1a-511; and

185 (C) the odometer disclosure statement required under Section 41-1a-902.

186 (f) The Motor Vehicle Division shall include a link to the disclosure statement

187 described in Subsection (3)(e)(ii) on its website.

188 (g) The commission may impose an administrative entrance fee established in

189 accordance with the procedures and requirements of Section 63J-1-504 not to exceed \$10 on a

190 person not holding a license described in Subsection (3)(e)(i) that enters the physical premises

191 of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an

192 auction.

193 (h) A vehicle sold at or through a motor vehicle auction to an out-of-state purchaser

194 with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has

195 been certificated out-of-state.

196 (4) (a) An operator of a motor vehicle auction shall keep a record of the sale of each

197 salvage vehicle.

198 (b) A record described under Subsection (4)(a) shall contain:

199 (i) the purchaser's name and address; and

200 (ii) the year, make, and vehicle identification number for each salvage vehicle sold.

201 (c) An operator of a motor vehicle auction shall:

202 (i) provide the record described in Subsection (4)(a) electronically in a method

203 approved by the division to the division within two business days of the completion of the

204 motor vehicle auction;

205 (ii) retain the record described in this Subsection (4) for five years from the date of

206 sale; and

207 (iii) make a record described in this Subsection (4) available for inspection by the

208 division at the location of the motor vehicle auction during normal business hours.

209 (5) (a) An operator of a motor vehicle auction shall store a salvage vehicle sold at

210 auction in a secure facility until the salvage vehicle is claimed as provided in this section.

211 (b) Beginning at the time of purchase and until the salvage vehicle is claimed, the

212 motor vehicle auction operator may collect a daily storage fee for the secure storage of each

213 salvage vehicle sold at auction.

214 (c) Except as provided in Subsection (5)(d), before releasing possession of a salvage  
215 vehicle purchased at a motor vehicle auction to a person not licensed under this part or certified  
216 as a tow truck operator under Title 72, Chapter 9, Part 6, Tow Truck Provisions, and if the  
217 person claiming the vehicle is a person other than the purchaser of the vehicle, the motor  
218 vehicle auction operator shall create a record that shall contain:

219 (i) the name and address, as verified by government issued identification, of the person  
220 claiming the vehicle;

221 (ii) the year, make, and vehicle identification number of the claimed vehicle;

222 (iii) a written statement from the person claiming the vehicle indicating the location  
223 where the salvage vehicle will be delivered; and

224 (iv) verification that the claimant has authorization from the purchaser to claim the  
225 vehicle.

226 (d) If the salvage vehicle is claimed by a transporter or a tow truck operator, the  
227 transporter or the tow truck operator shall submit to the motor vehicle auction operator a  
228 written record on any release forms indicating the location where the salvage vehicle will be  
229 delivered if delivered within the state.

230 (e) An operator of a motor vehicle auction shall:

231 (i) retain the record described in Subsection (5)(c) for five years from the date of sale;  
232 and

233 (ii) make the record available for inspection by the division at the location of the motor  
234 vehicle auction during normal business hours.

235 (6) (a) If applicable, an operator of a motor vehicle auction shall comply with the  
236 reporting requirements of the National Motor Vehicle Title Information System overseen by  
237 the United States Department of Justice if the person sells a vehicle with a salvage certificate to  
238 an in-state purchaser under Subsection (3)(c)(ii).

239 (b) The Motor Vehicle Division shall include a link to the National Motor Vehicle  
240 Title Information System on its website.

241 (7) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person  
242 that is an out-of-country buyer shall:

243 (i) stamp on the face of the title so as not to obscure the name, date, or mileage  
244 statement the words "FOR EXPORT ONLY" in all capital, black letters; and



245 (ii) stamp in each unused reassignment space on the back of the title the words "FOR  
246 EXPORT ONLY."

247 (b) The words "FOR EXPORT ONLY" shall be:

248 (i) at least two inches wide; and

249 (ii) clearly legible.

250 (8) A dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body  
251 shop shall obtain a supplemental license, in accordance with Section [41-3-201.7](#) for each  
252 additional place of business maintained by the licensee.

253 (9) (a) A person who has been convicted of any law relating to motor vehicle  
254 commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a  
255 salvage or nonrepairable certificate unless full restitution regarding those convictions has been  
256 made.

257 (b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a  
258 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (9)(a) if  
259 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor  
260 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or  
261 salvage certificate under Subsection (9)(a).

262 (10) (a) The division may not issue a license to a new applicant for a new or used  
263 motor vehicle dealer license, a direct-sale manufacturer license, a new or used motorcycle  
264 dealer license, or a small trailer dealer license unless the new applicant completes an eight-hour  
265 orientation class approved by the division that includes education on motor vehicle laws and  
266 rules.

267 (b) The approved costs of the orientation class shall be paid by the new applicant.

268 (c) The class shall be completed by the new applicant and the applicant's partners,  
269 corporate officers, bond indemnitors, and managers.

270 (d) (i) The division shall approve:

271 (A) providers of the orientation class; and

272 (B) costs of the orientation class.

273 (ii) A provider of an orientation class shall submit the orientation class curriculum to  
274 the division for approval prior to teaching the orientation class.

275 (iii) A provider of an orientation class shall include in the orientation materials:

- 276 (A) ethics training;
- 277 (B) motor vehicle title and registration processes;
- 278 [~~(C)~~ provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;]
- 279 [~~(D)~~] (C) Department of Insurance requirements relating to motor vehicles;
- 280 [~~(E)~~] (D) Department of Public Safety requirements relating to motor vehicles;
- 281 [~~(F)~~] (E) federal requirements related to motor vehicles as determined by the division;

282 and

283 [~~(G)~~] (F) any required disclosure compliance forms as determined by the division.

284 (11) A person or purchaser described in Subsection (3)(c)(ii):

285 (a) may not purchase more than five salvage vehicles with a nonrepairable or salvage  
286 certificate as defined in Section 41-1a-1001 in any 12-month period;

287 (b) may not, without first complying with Section 41-1a-705, offer for sale, sell, or  
288 exchange more than two vehicles with a salvage certificate as defined in Section 41-1a-1001 in  
289 any 12-month period to a person not licensed under this section; and

290 (c) may not, without first complying with Section 41-1a-705, offer for sale, sell, or  
291 exchange a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a  
292 person not licensed under this section.

293 (12) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a  
294 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (11)(a) if  
295 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor  
296 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or  
297 salvage certificate under Subsection (11)(a).

298 Section 4. Section 59-14-509 is amended to read:

299 **59-14-509. Restrictions on mail order or Internet sales.**

300 (1) For purposes of this section:

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

302 (i) is licensed in this state to purchase non-taxed tobacco products; and

303 (ii) stores, sells, or otherwise disposes of tobacco products.

304 (b) "Licensed person" is as defined in Subsection 59-14-409(1).

305 (c) "Order or purchase" includes:

306 (i) by mail or delivery service;

307 (ii) through the Internet or computer network;

308 (iii) by telephone; or

309 (iv) through some other electronic method.

310 (d) "Retailer" means any person who sells tobacco products to consumers for personal  
311 consumption.

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

313 (a) cause tobacco products or cigarettes as defined in Section 59-22-202 to be ordered  
314 or purchased by anyone other than a licensed person; or

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

316 (3) (a) Each order or purchase of a tobacco product or cigarettes as defined in Section  
317 59-22-202 in violation of Subsection (2) shall constitute a separate violation under this section.

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

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

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

322 (iii) recovery by the state for:

323 (A) the costs of investigation;

324 (B) the cost of expert witness fees;

325 (C) the cost of the action; and

326 (D) reasonable attorney's fees.

327 (4) ~~[A] If a person [who] knowingly violates this section [has engaged in an unfair and~~  
328 ~~deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act, and],~~ the court  
329 shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged  
330 and paid to the state treasurer for deposit in the General Fund.

331 Section 5. Section 59-14-608 is amended to read:

332 **59-14-608. License revocation and penalties.**

333 (1) (a) The commission may revoke or suspend the license of a stamping agent in the  
334 manner provided in Section 59-14-202 if the commission determines that the stamping agent  
335 has violated Sections 59-14-604, 59-14-606, or other rule adopted under the provisions of this  
336 part.

337 (b) The penalty imposed under Subsection (1)(a) is in addition to or in lieu of any other

338 civil or criminal remedy provided by law.

339 (c) Each stamp affixed and each sale or offer to sell cigarettes in violation of Section  
340 59-14-604, or other rule adopted under the provisions of this part, shall constitute a separate  
341 violation.

342 (d) For each violation under Subsection (1)(c), the commissioner may, in addition to  
343 the penalty imposed by Subsection (1)(a), impose a civil penalty in an amount not to exceed the  
344 greater of 500% of the retail value of the cigarettes or \$5,000.

345 (2) (a) Any cigarettes that have been sold, offered for sale, or possessed for sale, in this  
346 state, or imported for personal consumption in this state, in violation of Section 59-14-604 are:

347 (i) contraband under Section 59-14-213; and

348 (ii) subject to seizure and forfeiture as provided in Section 59-14-213.

349 (b) Cigarettes seized and forfeited under the provisions of this section shall be  
350 destroyed and not resold.

351 (3) (a) The commission may seek an injunction to:

352 (i) restrain a threatened or actual violation of this part by a stamping agent; or

353 (ii) to compel the stamping agent to comply with this part.

354 (b) In any action brought pursuant to this section, the state is entitled to recover the  
355 costs of investigation, costs of the action, and reasonable attorney fees.

356 ~~[(4) A person who violates Section 59-14-604 engages in an unfair and deceptive trade  
357 practice in violation of Title 13, Chapter 5, Unfair Practices Act.]~~

358 Section 6. Section 59-14-808 is amended to read:

359 **59-14-808. Restrictions on mail order or Internet sales.**

360 (1) For purposes of this section:

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

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

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

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

367 (c) "Order or purchase" includes:

368 (i) by mail or delivery service;

369 (ii) through the Internet or computer network;

370 (iii) by telephone; or

371 (iv) through some other electronic method.

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

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

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

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

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

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

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

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

384 (iii) recovery by the state for:

385 (A) the costs of investigation;

386 (B) the cost of expert witness fees;

387 (C) the cost of the action; and

388 (D) reasonable attorney's fees.

389 (4) ~~[A] If a person [who] knowingly violates this section, [has engaged in an unfair and~~  
390 ~~deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act, and]~~ the court  
391 shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged  
392 and paid to the state treasurer for deposit in the General Fund.

393 **Section 7. Repealer.**

394 This bill repeals:

395 Section **13-5-1, Short title.**

396 Section **13-5-2, "Person" defined.**

397 Section **13-5-2.5, Procedure to prevent unfair competition.**

398 Section **13-5-3, Unlawful discriminations -- Burden of proof -- Taking or offering**  
399 **commissions -- Payments for benefit of customers -- Discrimination among purchasers --**

400 **Inducing discriminations.**

401 Section **13-5-4**, Return of net earnings or surplus by cooperatives to members.

402 Section **13-5-5**, "Commerce" defined.

403 Section **13-5-6**, Liability of agents.

404 Section **13-5-8**, Advertising goods not prepared to supply.

405 Section **13-5-9**, Limitation on quantity of article or product sold or offered for sale

406 **to any one customer.**

407 Section **13-5-10**, Cost -- Purchase price at forced sales.

408 Section **13-5-11**, Proceedings -- Local cost surveys as evidence.

409 Section **13-5-12**, Sales exempt from chapter.

410 Section **13-5-13**, Contracts in violation declared illegal.

411 Section **13-5-14**, Injunctive relief -- Damages -- Immunity.

412 Section **13-5-15**, Penalty for violation of chapter.

413 Section **13-5-16**, Separability clause.

414 Section **13-5-17**, Policy of act.

415 Section **13-5-18**, Cost -- Separate entities of business.

416 Section 8. **Effective date.**

417 This bill takes effect on May 3, 2023, except that the amendments to Section **13-2-1**

418 (Effective 12/31/23) take effect on December 31, 2023.