{deleted text} shows text that was in SB0263 but was deleted in SB0263S01.

inserted text shows text that was not in SB0263 but was inserted into SB0263S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Curtis S. Bramble proposes the following substitute bill:

# PRODUCT TAX AMENDMENTS

2023 GENERAL SESSION STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble** 

House Sponsor:	

#### **LONG TITLE**

#### **General Description:**

This bill modifies tax provisions in the Electronic Cigarette and Nicotine Product Taxation and Licensing Act.

#### **Highlighted Provisions:**

This bill:

- {separates electronic cigarette products and nontherapeutic nicotine products from alternative nicotine products with regard to licensing and taxation requirements;
- <u>creates} provides for proportional reductions in the amounts distributed from</u> the Electronic Cigarette <u>Substance</u> and { Nontherapeutic} Nicotine Product {Licensing and Taxation Act;

- defines "retail price";
  - imposes a tax on the retail price rather than the manufacturer's sale price of
    electronic cigarettes and nontherapeutic nicotine products;} Tax Restricted Account
    (the account) if the revenue deposited into the account is insufficient to fund the
    statutory amounts;
  - extends the use of the account revenue to include funding compliance personnel
     within the State Tax Commission; and
  - ► requires the {retailer} State Tax Commission to { pay}:
    - <u>increase enforcement of</u> the \{\text{tax on an}\}\)\(\text{collection of the}\) electronic cigarette
      \{\text{product or a nontherapeutic}\}\)\(\text{and}\)\(\text{nicotine product}\{\text{\frac{1}{3}}\}\)
  - adjusts the rate of the} tax;
    - {provides for distribution} conduct a study on enforcement and collection of

      {tax revenue for}the electronic cigarette

      {products, nontherapeutic}and nicotine {products,
      and alternative nicotine products; and
  - makes technical and conforming changes} product tax; and
    - report the State Tax Commission's findings and recommendations to the Revenue and Taxation Interim Committee.

#### **Money Appropriated in this Bill:**

None

#### **Other Special Clauses:**

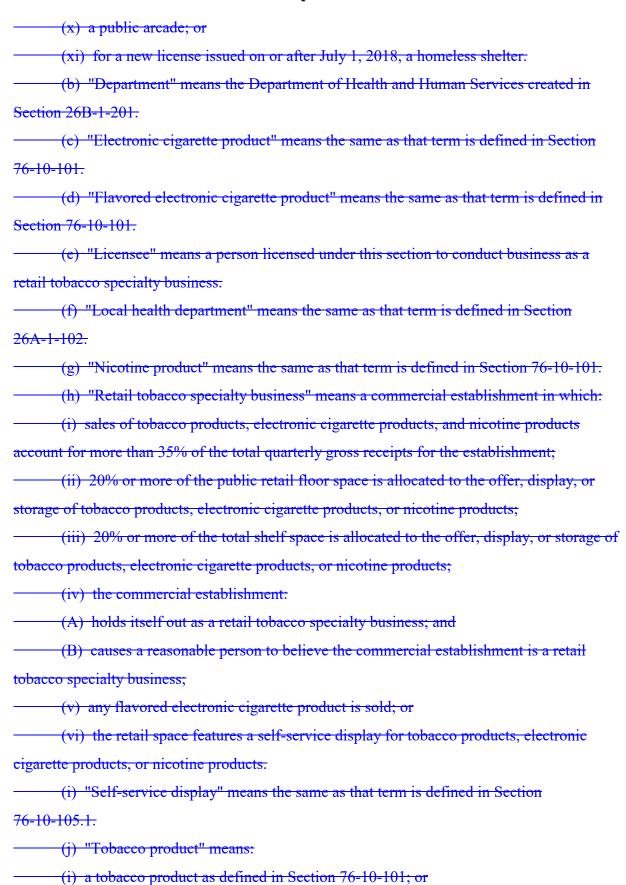
{ This bill provides a special effective date.} None

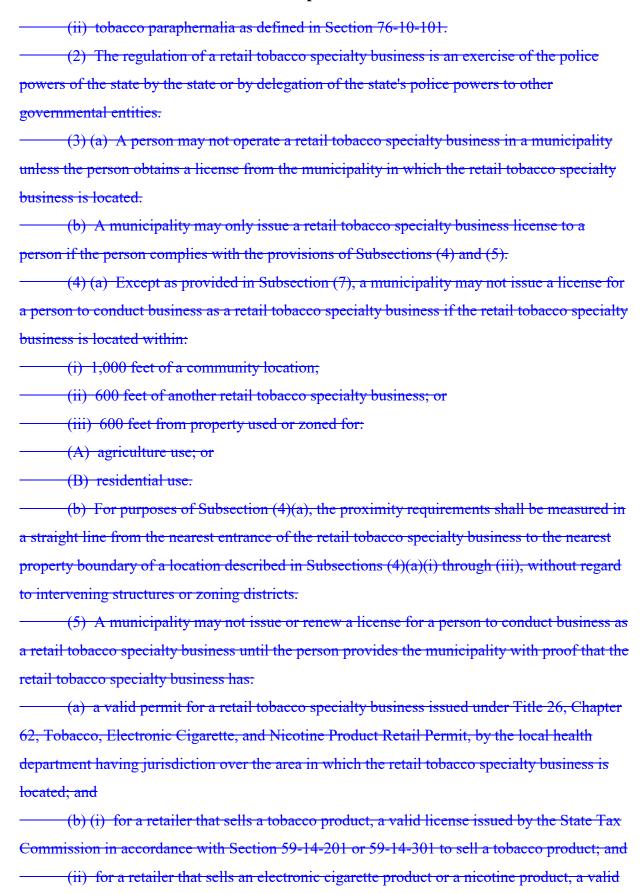
#### **Utah Code Sections Affected:**

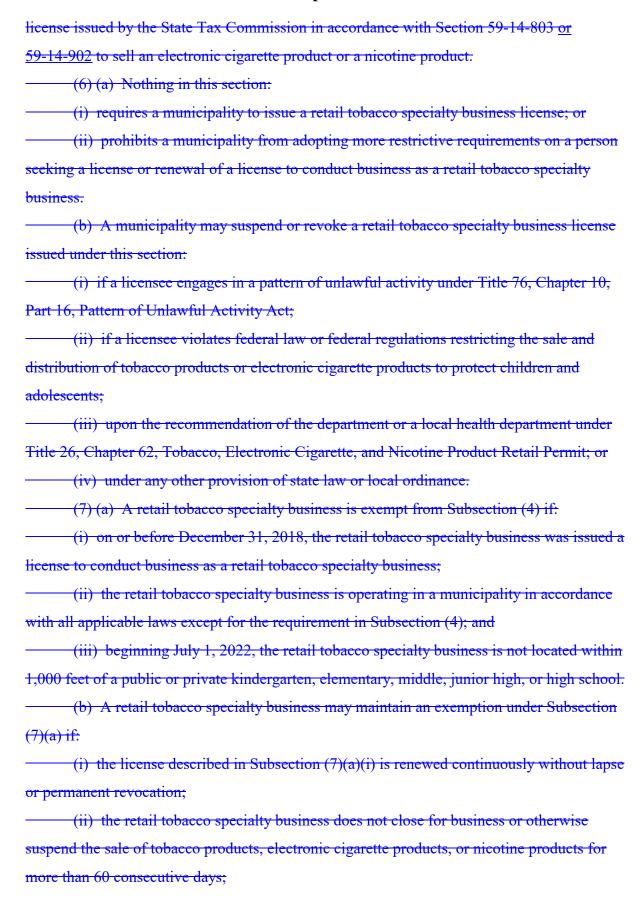
#### AMENDS:

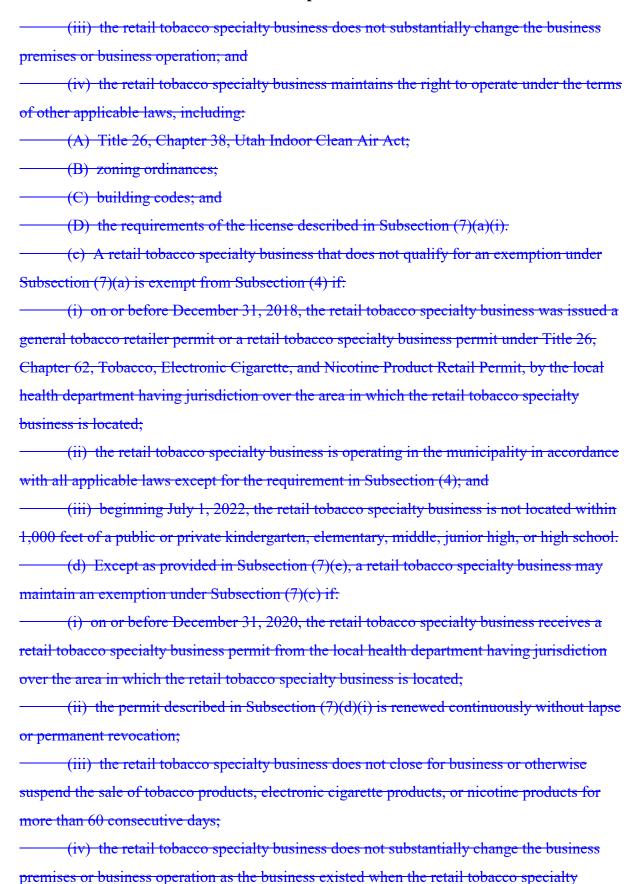
10-8-41.6, as last amended by Laws of Utah 2022, Chapter 255
17-50-333, as last amended by Laws of Utah 2022, Chapter 255
26-62-102, as last amended by Laws of Utah 2020, Chapters 302, 347
26-62-206, as enacted by Laws of Utah 2020, Chapter 347
59-14-801, as last amended by Laws of Utah 2020, Chapter 347
59-14-802, as last amended by Laws of Utah 2020, Chapter 347
59-14-803, as last amended by Laws of Utah 2020, Chapter 347

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59-14-804, as enacted by Laws of Utah 2020, Chapter 347
       59-14-805, as enacted by Laws of Utah 2020, Chapter 347
       59-14-806, as enacted by Laws of Utah 2020, Chapter 347
}
       59-14-807, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
       59-14-808, as enacted by Laws of Utah 2020, Chapter 347
       63I-1-259, as last amended by Laws of Utah 2022, Chapter 218
ENACTS:
       <del>{59-14-901}</del> <u>59-14-809</u>, Utah Code Annotated 1953
      59-14-902, Utah Code Annotated 1953
       59-14-903, Utah Code Annotated 1953
       59-14-904, Utah Code Annotated 1953
      59-14-905, Utah Code Annotated 1953
       59-14-906, Utah Code Annotated 1953
      59-14-907, Utah Code Annotated 1953
      59-14-908, Utah Code Annotated 1953
       59-14-909, Utah Code Annotated 1953
Be it enacted by the Legislature of the state of Utah:
       Section 1. Section {10-8-41.6}59-14-807 is amended to read:
       10-8-41.6. Regulation of retail tobacco specialty business.
       (1) As used in this section:
       (a) "Community location" means:
       (i) a public or private kindergarten, elementary, middle, junior high, or high school;
       (ii) a licensed child-care facility or preschool;
       (iii) a trade or technical school;
      (iv) a church;
      (v) a public library;
      (vi) a public playground;
      (vii) a public park;
       (viii) a youth center or other space used primarily for youth oriented activities;
       (ix) a public recreational facility;
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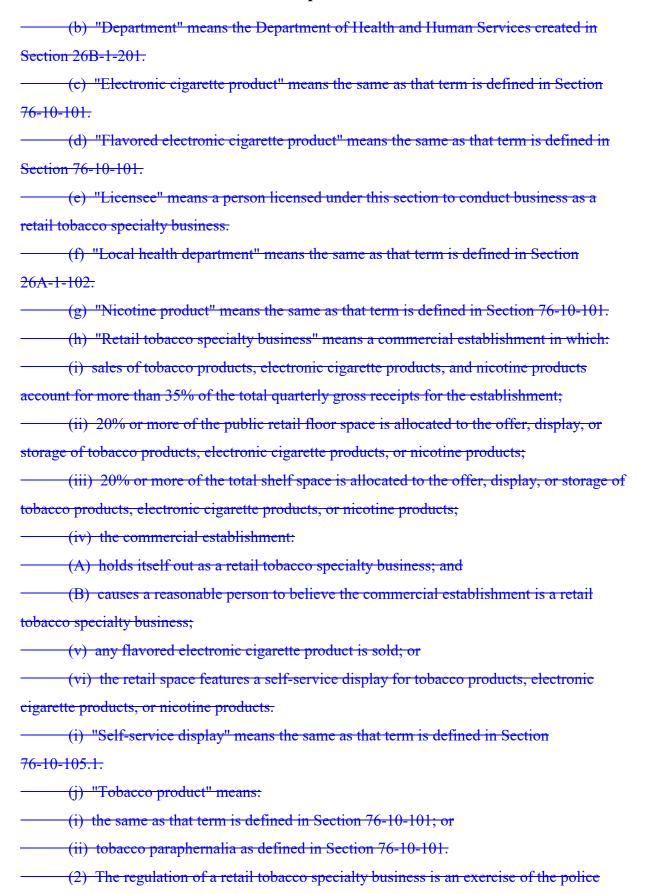






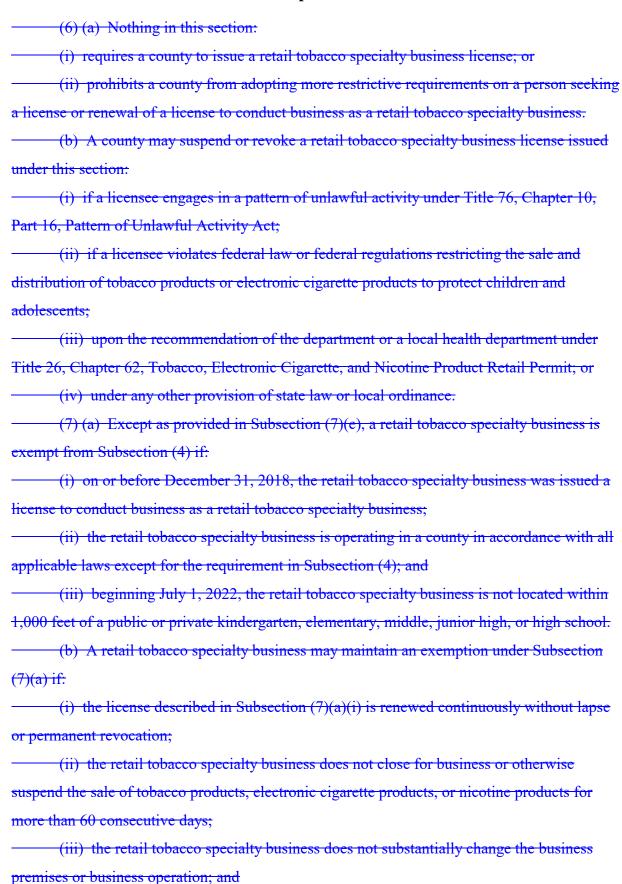


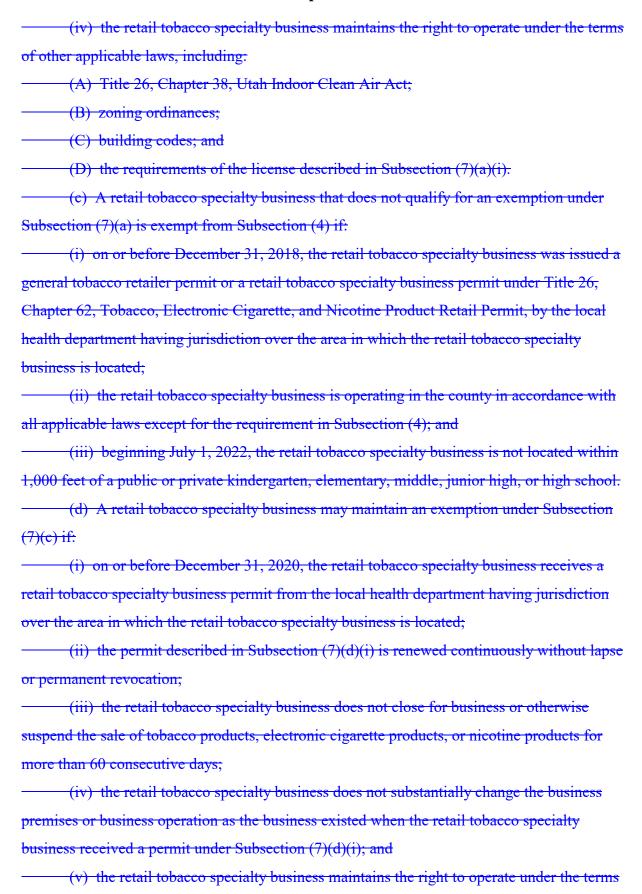
business received a permit under Subsection (7)(d)(i); and (v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including: (A) Title 26, Chapter 38, Utah Indoor Clean Air Act; (B) zoning ordinances; (C) building codes; and (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i). (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business: (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and (ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e). Section 2. Section 17-50-333 is amended to read: 17-50-333. Regulation of retail tobacco specialty business. (1) As used in this section: (a) "Community location" means: (i) a public or private kindergarten, elementary, middle, junior high, or high school; (ii) a licensed child-care facility or preschool; (iii) a trade or technical school; (iv) a church; (v) a public library; (vi) a public playground; (vii) a public park; (viii) a youth center or other space used primarily for youth oriented activities; (ix) a public recreational facility; (x) a public arcade; or (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

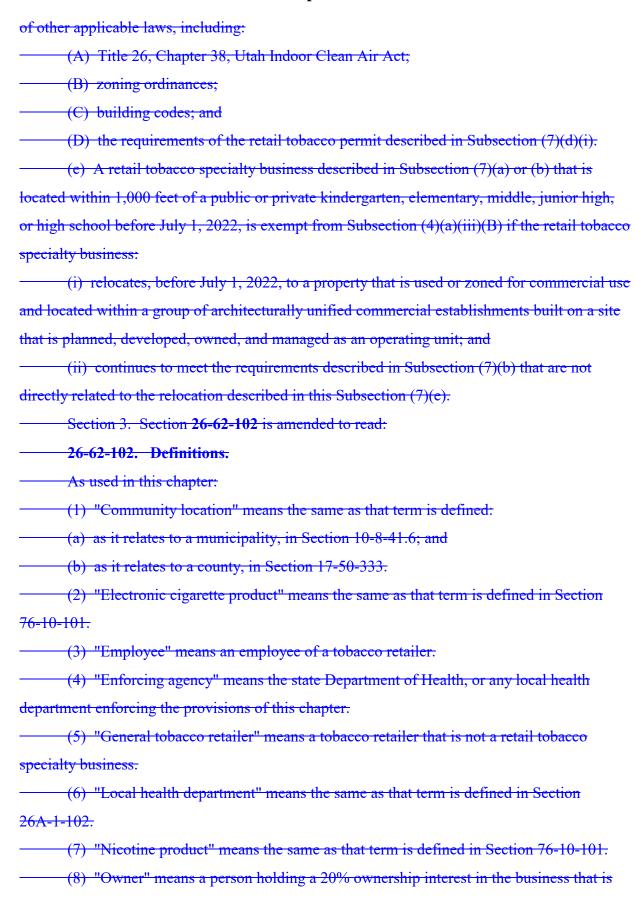


powers of the state by the state or by the delegation of the state's police power to other governmental entities. (3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located. (b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5). (4) (a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within: (i) 1,000 feet of a community location; (ii) 600 feet of another retail tobacco specialty business; or (iii) 600 feet from property used or zoned for: (A) agriculture use; or (B) residential use. (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts. (5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has: (a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or (ii) for a retailer that sells an electronic eigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 or

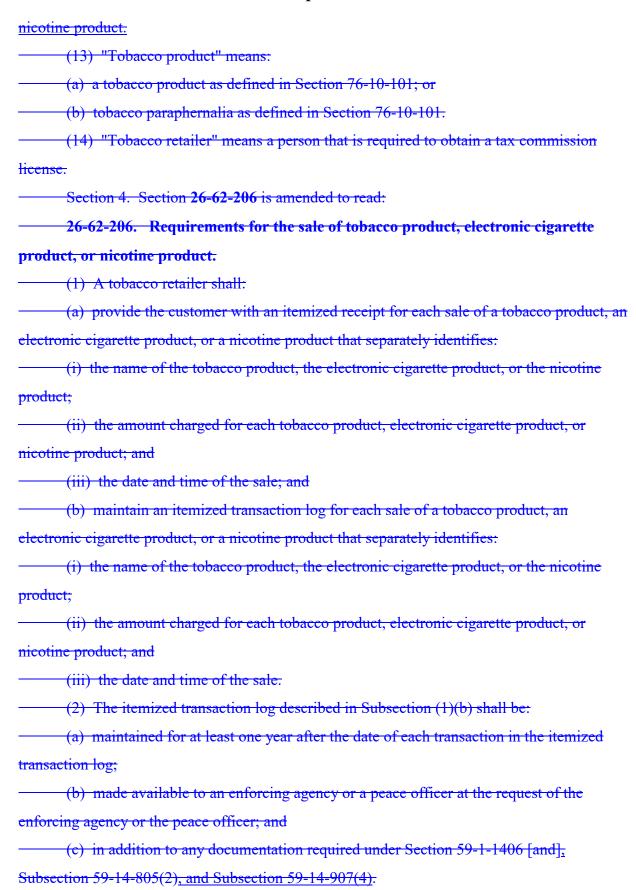
59-14-902 to sell an electronic cigarette product or a nicotine product.

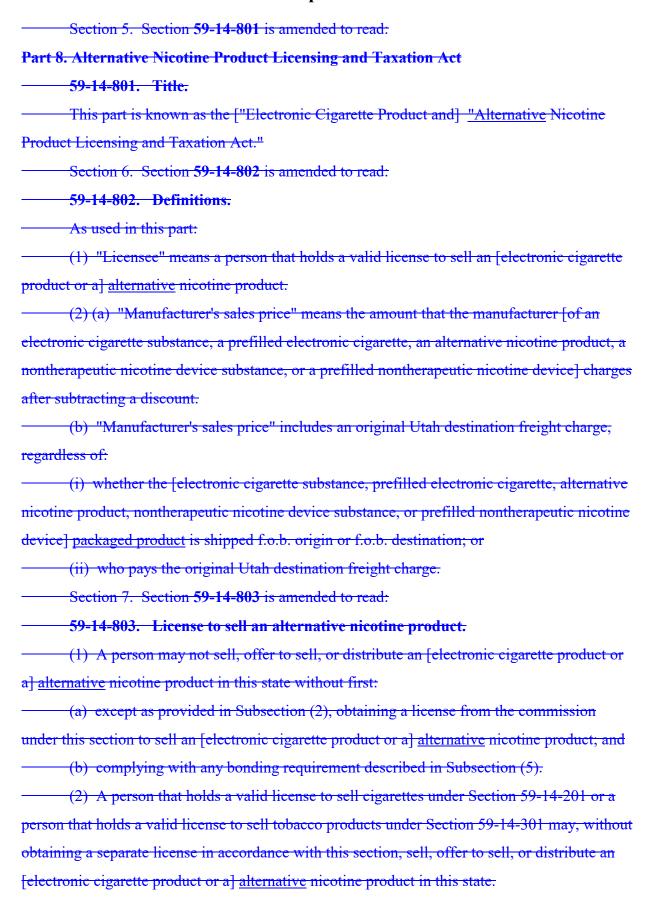


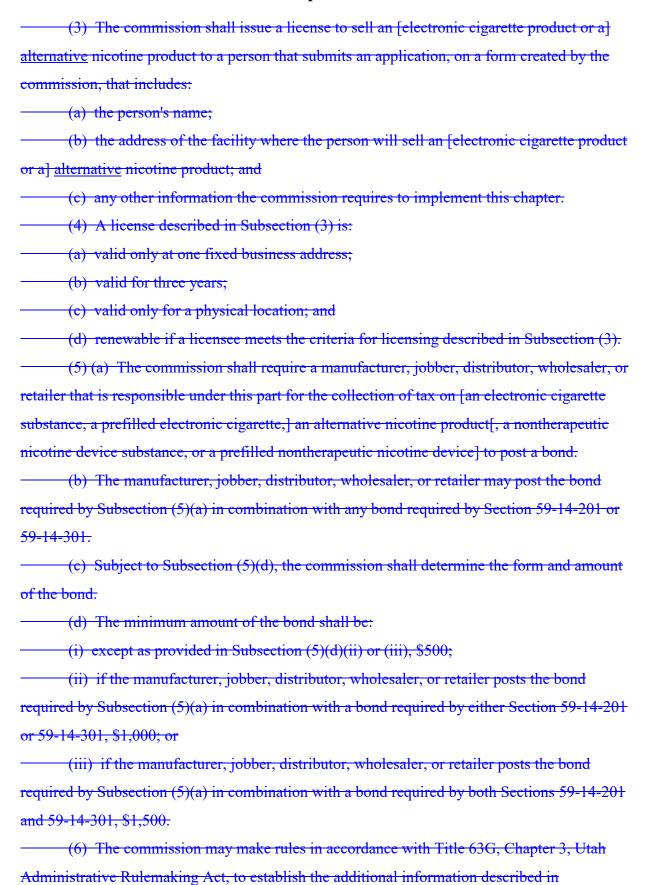


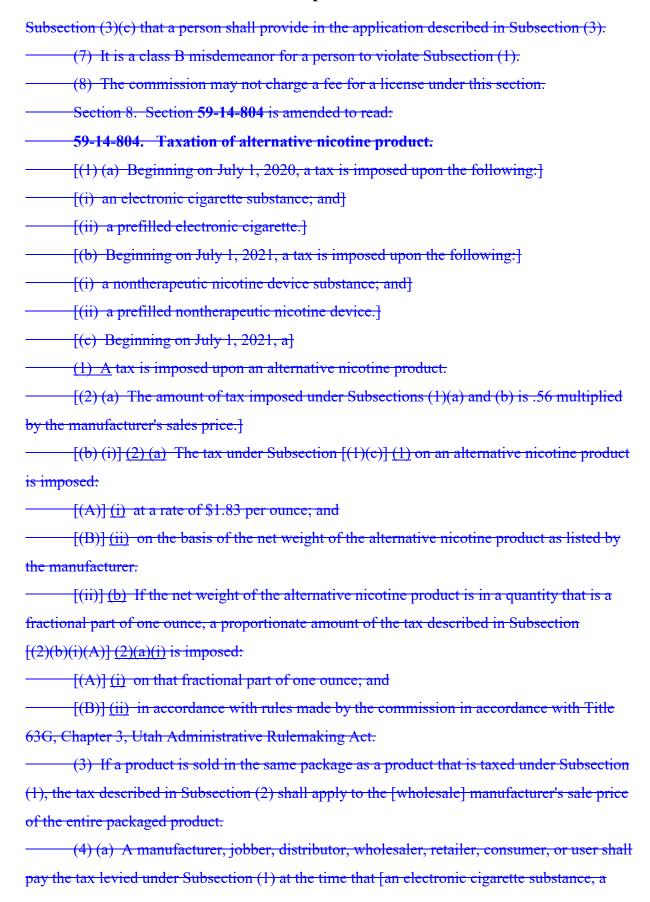


required to obtain a permit under this chapter.
(9) "Permit" means a tobacco retail permit issued under this chapter.
(10) (a) "Proof of age" means:
(i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification
Card Act;
(ii) a valid identification that:
(A) is substantially similar to an identification card issued under Title 53, Chapter 3,
Part 8, Identification Card Act;
(B) is issued in accordance with the laws of a state other than Utah in which the
identification is issued;
(C) includes date of birth; and
(D) has a picture affixed;
(iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform
Driver License Act, or in accordance with the laws of the state in which the valid driver license
is issued;
(iv) a valid United States military identification card that:
(A) includes date of birth; and
(B) has a picture affixed; or
(v) a valid passport.
(b) "Proof of age" does not include a valid driving privilege card issued in accordance
with Section 53-3-207.
(11) "Retail tobacco specialty business" means the same as that term is defined:
(a) as it relates to a municipality, in Section 10-8-41.6; and
(b) as it relates to a county, in Section 17-50-333.
(12) "Tax commission license" means a license issued by the State Tax Commission
under:
(a) Section 59-14-201 to sell a cigarette at retail;
(b) Section 59-14-301 to sell a tobacco product at retail; [or]
(c) Section 59-14-803 to sell an [electronic cigarette product or a] alternative nicotine
product[.]; or
(d) Section 59-14-902 to sell an electronic cigarette product or a nontherapeutic

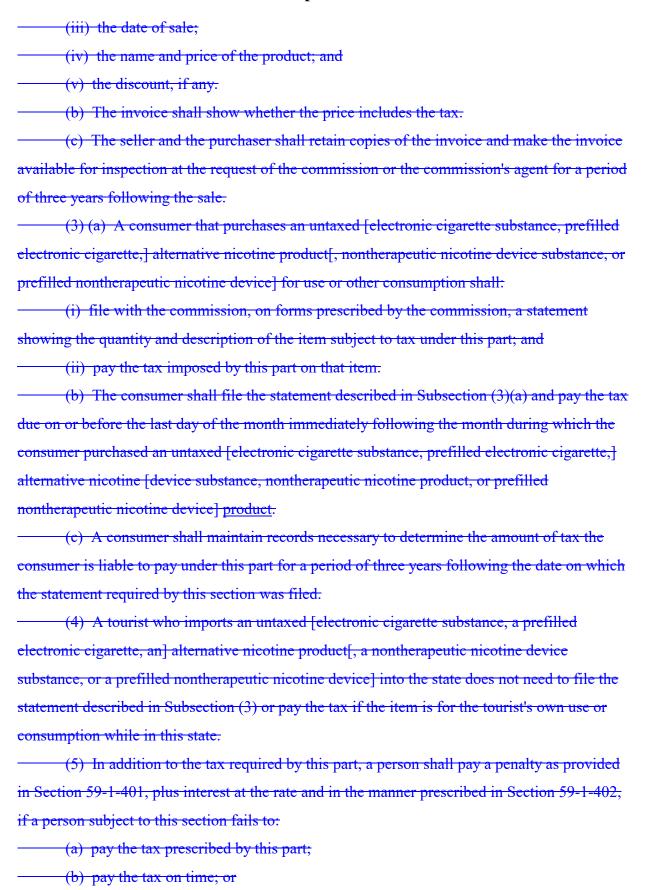








prefilled electronic cigarette,] an alternative nicotine product[, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device] is first received in the state. (b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not resell [an electronic cigarette substance, a prefilled electronic cigarette,] an alternative nicotine product[, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device] to another distributor, another retailer, or a consumer before paying the tax levied under Subsection (1). (5) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall remit the taxes collected in accordance with this section to the commission. (b) The commission shall deposit [revenues] revenue generated by the tax imposed by this section into the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account created in Section 59-14-807. Section 9. Section 59-14-805 is amended to read: 59-14-805. Remittance of tax -- Returns -- Invoice required -- Filing requirement-- Exception -- Penalty -- Overpayment. (1) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user that collects the tax imposed on [an electronic cigarette substance, a prefilled electronic cigarette,] an alternative nicotine product[, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device] shall remit to the commission, in an electronic format approved by the commission: (i) the tax collected in the previous calendar quarter; and (ii) the quarterly tax return. (b) The tax collected and the return are due on or before the last day of April, July, October, and January. (2) (a) A manufacturer, jobber, distributor, wholesaler, retailer, or any other person selling [an electronic cigarette substance, a prefilled electronic cigarette,] an alternative nicotine product[, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device] to a person other than the ultimate consumer shall furnish the purchaser with an itemized invoice showing: (i) the seller's name and address; (ii) the name and address of the purchaser;



- (c) file a return required by this part. (6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the manner prescribed in Section 59-1-402. Section 10. Section 59-14-806 is amended to read: 59-14-806. Refund of taxes paid -- Exemption for exported alternative nicotine products. (1) When [an electronic cigarette substance, a prefilled electronic cigarette,] an alternative nicotine product[, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device] taxed under this chapter is sold and shipped to a regular dealer in those articles in another state, the seller in this state shall be entitled to a refund of the actual amount of the taxes paid, upon condition that the seller in this state: (a) is a licensed dealer; (b) signs an affidavit that [the electronic cigarette substance, the prefilled electronic cigarette,] the alternative nicotine product[, the nontherapeutic nicotine device substance, or the prefilled nontherapeutic nicotine device] was sold and shipped to a regular dealer in those articles in another state; (c) furnishes, from the purchaser, a written acknowledgment that the purchaser has received [the electronic cigarette substance, the prefilled electronic cigarette,] the alternative nicotine product[, the nontherapeutic nicotine device substance, or the prefilled nontherapeutic nicotine device]; and (d) reports the name and address of the purchaser. (2) A wholesaler or distributor in this state that exports [an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device] to a regular dealer in those articles in another state shall be exempt from the payment of any tax under this chapter upon furnishing proof of the sale and exportation as the commission may require. Section 11. Section 59-14-807 is amended to read: 59-14-807. Electronic Cigarette Substance and Nicotine Product Tax Restricted Account.
- (1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

- (2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account consists of:
- (a) [revenues] {\text{\text{revenue}} collected from the tax imposed by \{\text{\text{\text{}}} Section \{\text{\text{}} Section \{\text{}}\} Section \{\text{\text{}} Section \{\text{}}\} Section \{\text{} \text{\text{}} Section \{\text{}}\} \}; and
  - (b) amounts appropriated by the Legislature.
- (3) (a) For each fiscal year[, beginning with fiscal year 2021], and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account:
- [(a)] (i) \$2,000,000, which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116;
- [(b)] (ii) \$2,000,000 to the Department of Health for statewide cessation programs and prevention education;
- [(c)] (iii) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;
- [(d)] (iv) \$3,000,000, which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116;
- $[\underline{(e)}]$   $\underline{(v)}$  \$5,084,200 to the State Board of Education for school-based prevention programs; and
- [(f)] (vi) \$2,000,000 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television.
- (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Tax

  Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the distribution amounts shall be adjusted proportionately.
- (4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:
  - (i) the regulation provisions described in Section 26-57-103;
  - (ii) the labeling requirement described in Section 26-57-104; and
  - (iii) the penalty provisions described in Section 26-62-305.
  - (b) The Department of Health shall use the money received in accordance with

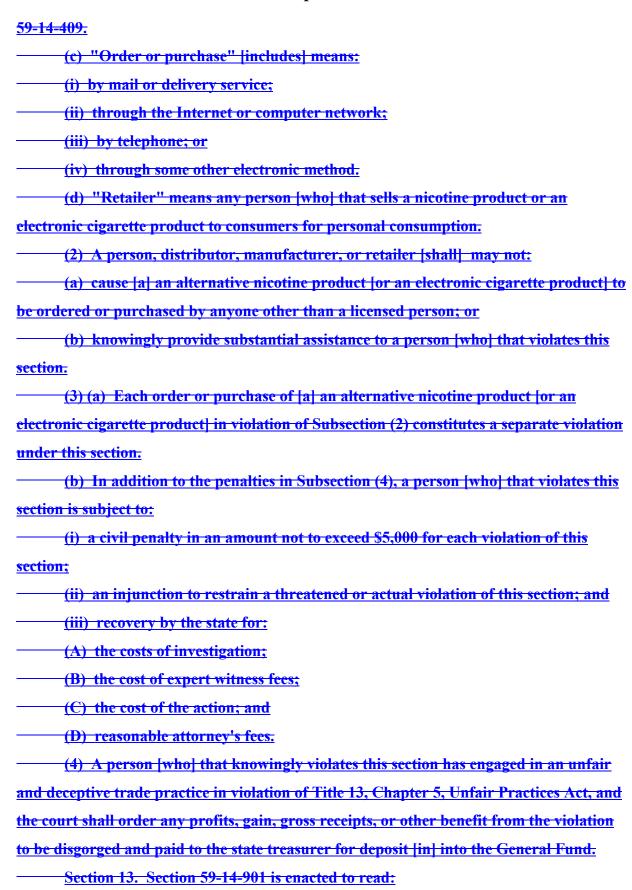
Subsection [(3)(b)] (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26-7-10.

- (c) The local health departments shall use the money received in accordance with Subsection [(3)(d)] (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.
- (d) The State Board of Education shall use the money received in accordance with Subsection [(3)(e)] (3)(a)(v) to distribute to local education agencies to pay for:
- (i) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);
- (ii) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and
- (iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b).
  - (5) (a) The fund shall earn interest.
  - (b) All interest earned on fund money shall be deposited into the fund.
- (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account after the distribution described in Subsection (3) may only be used for:
- (a) funding commission personnel to enforce compliance with the tax collection requirements of this part; and
- (b) programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

Section  $\frac{12}{2}$ . Section  $\frac{59-14-808}{59-14-809}$  is  $\frac{14-809}{2}$  is  $\frac{14-809}{2}$  is  $\frac{14-809}{2}$  is  $\frac{14-809}{2}$  is  $\frac{14-809}{2}$ 

**<u>{59-14-808.</u>** Restrictions on mail order or Internet sales.

- (1) [For purposes of] As used in this section:
- (a) "Distributor" means a person, wherever residing or located, [who] that:
- (i) is licensed in this state to purchase a non-taxed alternative nicotine product [or a non-taxed electronic cigarette product]; and
- (ii) stores, sells, or otherwise disposes of [a] an alternative nicotine product [or an electronic cigarette product].
  - (b) "Licensed person" means the same as that term is defined in Section



#### Part 9.\59-14-809. Commission study on enforcement and collection of tax.

- (1) The commission shall:
- (a) implement increased enforcement of the tax imposed by this part; and
- (b) study issues related to increased enforcement and compliance with the requirements of this part.
  - (2) The study shall include a review of:
  - (a) the impact of increased enforcement on collections of the tax imposed by this part;
- (b) options for long-term funding of increased enforcement of the tax imposed by this part;
- (c) the sufficiency of collections of the tax imposed by this part to fund distributions

  from the Electronic Cigarette Substance and Nontherapeutic Nicotine Product Licensing

  and Taxation Act

#### 59-14-901. **Definitions.**

- (1) "Licensee" means a person that holds a valid license to sell an} Tax Restricted

  Account under Section 59-14-807;
- (d) impacts of a lack of federal regulation of electronic {cigarette product or a nontherapeutic nicotine product.
- (2) "Retail price" means the amount charged by a retailer for cigarettes on enforcement and compliance efforts; and
- (e) potential impacts on compliance of changing the incidence of taxation to a tax imposed on the retail sale of an electronic cigarette substance {, a} or prefilled electronic cigarette {, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.
  - Section 14. Section 59-14-902 is enacted to read:
- 59-14-902. License to sell electronic cigarette product or nontherapeutic nicotine product.
- (1) A person may not sell, offer to sell, or distribute an electronic cigarette product or a nontherapeutic nicotine product in this state without first obtaining a license from the commission under this section to sell an electronic cigarette product or a nontherapeutic nicotine product}.
  - (\{2\}3) The commission shall \{\text{issue a license to sell an electronic cigarette product or a}

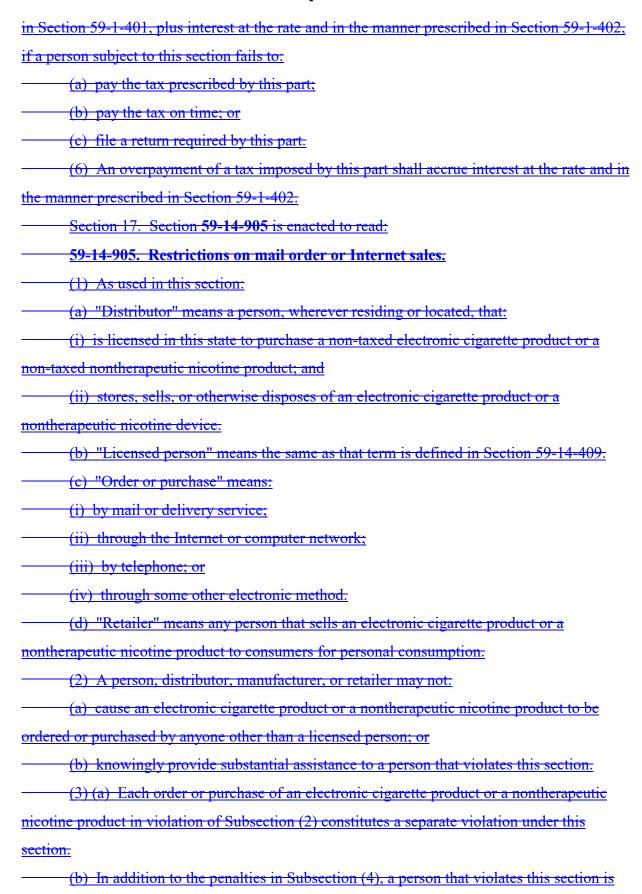
nontherapeutic nicotine product to a person that submits an application, on a form created by
the commission, that includes:
(a) the person's name;
(b) the address of the location permitted under Section 26-62-201 where the person
will sell an electronic cigarette product or a nontherapeutic nicotine product; and
(c) any other information the commission requires to implement this chapter.
(3) A license} annually report the commission's findings and recommendations on the
study items described in Subsections (2)(a) through (d) to the Revenue and Taxation Interim
Committee on or before the September interim meeting.
(4) The commission shall report the commission's findings and recommendations on
the study item described in Subsection (2) (is:
(a) valid only at one fixed business address;
(b) valid for three years;
(c) valid only for a physical location; and
(d) renewable if a licensee meets the criteria for licensing described in Subsection (2).
(4) The commission may make rules in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, to establish the additional information described in
Subsection (2)(c) that a person shall provide in the application described in Subsection (2).
(5) It is a class B misdemeanor for a person to violate Subsection (1).
(6) The commission may not charge a fee for a license under this section.
Section 15. Section 59-14-903 is enacted to read:
59-14-903. Taxation of electronic cigarette substance, prefilled electronic
cigarette, nontherapeutic nicotine device substance, and prefilled nontherapeutic nicotin
device.
(1) A tax is imposed upon the following:
(a) an electronic cigarette substance;
(b) a prefilled electronic cigarette;
(c) a nontherapeutic nicotine device substance; and
(d) a prefilled nontherapeutic nicotine device.
(2) The amount of tax imposed under Subsection (1) is .50 multiplied by the retail
<del>price.</del>

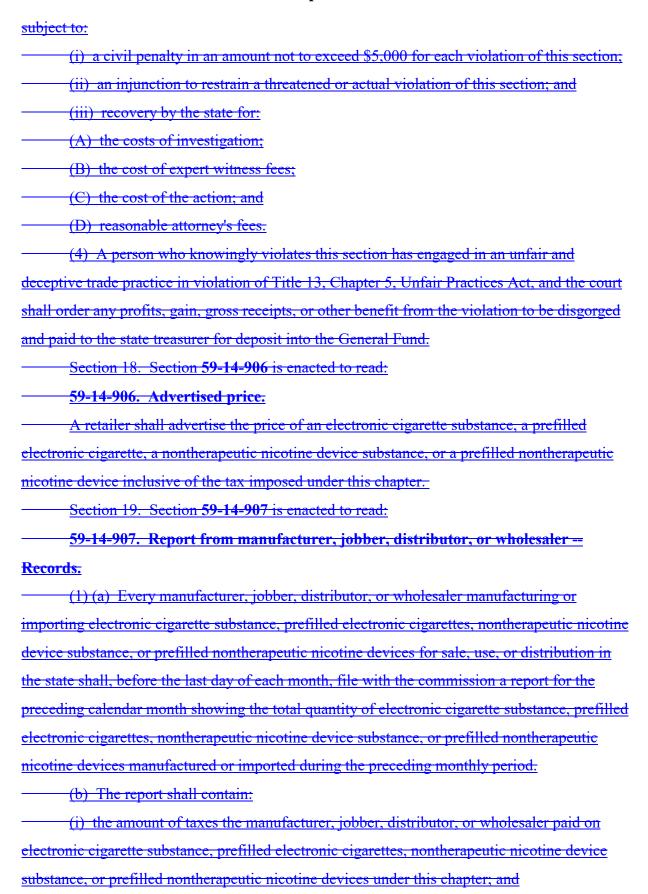
(3) If a product is sold in the same package as a product that is taxed under Subsection (1), the tax described in Subsection (2) shall apply to the retail price of the entire packaged product. (4) (a) A retailer shall pay the tax levied under Subsection (1) at the time that an electronic cigarette substance, a prefilled electronic cigarette, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device is sold. (b) A consumer who receives an untaxed electronic eigarette substance, prefilled electronic cigarette, nontherapeutic nicotine device substance, or prefilled nontherapeutic nicotine device shall pay the tax at the time the item is first received in the state. (5) (a) The retailer shall remit the taxes collected in accordance with this section to the commission. (b) The commission may allow a credit to a retailer against the tax due under this section for taxes previously paid to the commission on an electronic cigarette substance, a prefilled electronic cigarette, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device subject to the tax under this section. (c) The commission shall deposit revenue generated by the tax imposed by this section into the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account created in Section 59-14-807. (6) On or before November 30 of each year, the Revenue and Taxation Interim Committee shall: (a) receive reports from: (i) the commission on the amount of revenue collected from the tax imposed under this section; and (ii) the recipients of the revenue on the needs of the programs that receive funding in accordance with Section 59-14-807 from the tax imposed under this section and Section <del>59-14-804; and</del> (b) if the Revenue and Taxation Interim Committee recommends an adjustment to a tax rate provided in this section, prepare legislation for consideration by the Legislature in the next general session. Section 16. Section 59-14-904 is enacted to read:

59-14-904. Remittance of tax -- Returns -- Invoice required -- Filing requirement

#### -- Exception -- Penalty -- Overpayment.

- (1) (a) The retailer that pays the tax imposed on an electronic cigarette substance, a prefilled electronic cigarette, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device shall remit to the commission, in an electronic format approved by the commission:
  - (i) the tax due in the previous calendar quarter; and
  - (ii) the tax return.
- (b) The tax paid and the return are due on the same dates that the retailer files the sales and use tax return under Section 59-12-107.
- (2) A retailer that sells an electronic cigarette substance, a prefilled electronic cigarette, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to an ultimate consumer shall maintain records to determine the amount of tax the retailer is liable to pay under this part for a period of three years from the date of the sale.
- (3) (a) A consumer that purchases an untaxed electronic eigarette substance, prefilled electronic eigarette, nontherapeutic nicotine device substance, or prefilled nontherapeutic nicotine device for use or other consumption shall:
- (i) file with the commission, on forms prescribed by the commission, a statement showing the quantity and description of the item subject to tax under this part; and
  - (ii) pay the tax imposed by this part on that item.
- (b) The consumer shall file the statement described in Subsection (3)(a) and pay the tax due on or before the last day of the month immediately following the month during which the consumer purchased an untaxed electronic cigarette substance, prefilled electronic cigarette, nontherapeutic nicotine product, or prefilled nontherapeutic nicotine device.
- (c) A consumer shall maintain records necessary to determine the amount of tax the consumer is liable to pay under this part for a period of three years following the date on which the statement required by this section was filed.
- (4) A tourist who imports an untaxed electronic cigarette substance, a prefilled electronic cigarette, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device into the state does not need to file the statement described in Subsection (3) or pay the tax if the item is for the tourist's own use or consumption while in this state.
  - (5) In addition to the tax required by this part, a person shall pay a penalty as provided

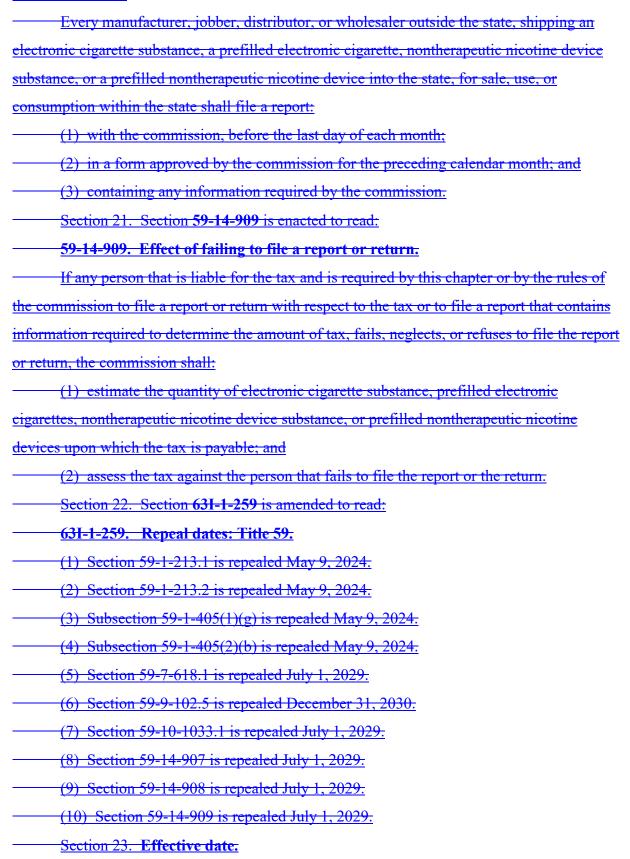




(ii) other information required by the commission. (c) The commission shall credit taxes paid on electronic cigarette substance, a prefilled electronic eigarette, nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device by a manufacturer, jobber, distributor, or wholesaler against the taxes due under Section 59-14-903. (2) (a) An electronic cigarette substance, a prefilled electronic cigarette, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device is considered manufactured when the product is placed in containers for use, sale, or distribution. (b) An electronic cigarette substance, a prefilled electronic cigarette, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device is considered imported when the product is first received in the state for use, sale, or distribution. (3) (a) It is the duty of every person manufacturing or importing electronic cigarette substance, prefilled electronic cigarettes, nontherapeutic nicotine device substance, or prefilled nontherapeutic nicotine devices for sale in this state to keep and preserve adequate records for a period of three years showing the quantities sold. (b) These records are open to inspection by the commission or the commission's authorized representative during reasonable business hours. (4) (a) A manufacturer, jobber, distributor, wholesaler, retailer, or any other person selling an electronic cigarette substance, a prefilled electronic cigarette, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to a person other than the ultimate consumer shall furnish the purchaser with an itemized invoice showing: (i) the seller's name and address; (ii) the name and address of the purchaser; (iii) the date of sale; (iv) the name and price of the product; and (v) the discount, if any. (b) The seller and the purchaser shall retain copies of the invoice and make the invoice available for inspection at the request of the commission or the commission's agent for a period of three years following the sale. Section 20. Section 59-14-908 is enacted to read:

59-14-908. Reports of manufacturer, jobber, distributor, or wholesaler located

#### outside the state.



This bill takes effect on January 1, 2024.

†(e) to the Revenue and Taxation Interim Committee on or before the September 2023 interim meeting.