

Senator Jen Plumb proposes the following substitute bill:

**ELECTRONIC CIGARETTE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jen Plumb**

House Sponsor: Brady Brammer



**LONG TITLE**

**General Description:**

This bill modifies provisions related to electronic cigarettes.

**Highlighted Provisions:**

This bill:

- ▶ prohibits the sale of electronic cigarette products that have not received market authorization or are pending market authorization from the federal Food and Drug Administration;
- ▶ prohibits the sale of flavored electronic cigarette products; and
- ▶ creates a registry for electronic cigarette products.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

**AMENDS:**

- 10-8-41.6**, as last amended by Laws of Utah 2023, Chapter 327
- 17-50-333**, as last amended by Laws of Utah 2023, Chapter 327
- 26B-7-505**, as renumbered and amended by Laws of Utah 2023, Chapter 308



26 **59-14-807**, as last amended by Laws of Utah 2023, Chapters 98, 300, 329, and 531 and  
27 last amended by Coordination Clause, Laws of Utah 2023, Chapter 531

28 **76-10-101**, as last amended by Laws of Utah 2023, Chapter 330

29 **76-10-113**, as enacted by Laws of Utah 2020, Chapter 302

30 ENACTS:

31 **26A-1-131**, Utah Code Annotated 1953

32 **59-14-810**, Utah Code Annotated 1953



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

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

36 **10-8-41.6. Regulation of retail tobacco specialty business.**

37 (1) As used in this section:

38 (a) "Community location" means:

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

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

41 (iii) a trade or technical school;

42 (iv) a church;

43 (v) a public library;

44 (vi) a public playground;

45 (vii) a public park;

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

47 (ix) a public recreational facility;

48 (x) a public arcade; or

49 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

50 (b) "Department" means the Department of Health and Human Services created in

51 Section **26B-1-201**.

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

53 **76-10-101**.

54 [~~(d)~~ "Flavored electronic cigarette product" means the same as that term is defined in

55 Section ~~76-10-101~~.]

56 [~~(e)~~ (d) "Licensee" means a person licensed under this section to conduct business as a

57 retail tobacco specialty business.

58 ~~[(f)]~~ (e) "Local health department" means the same as that term is defined in Section  
59 26A-1-102.

60 ~~[(g)]~~ (f) "Nicotine product" means the same as that term is defined in Section  
61 76-10-101.

62 ~~[(h)]~~ (g) "Retail tobacco specialty business" means a commercial establishment in  
63 which:

64 (i) sales of tobacco products, electronic cigarette products, and nicotine products  
65 account for more than 35% of the total quarterly gross receipts for the establishment;

66 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or  
67 storage of tobacco products, electronic cigarette products, or nicotine products;

68 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of  
69 tobacco products, electronic cigarette products, or nicotine products;

70 (iv) the commercial establishment:

71 (A) holds itself out as a retail tobacco specialty business; and

72 (B) causes a reasonable person to believe the commercial establishment is a retail  
73 tobacco specialty business; or

74 ~~[(v) any flavored electronic cigarette product is sold; or]~~

75 ~~[(vi)]~~ (v) the retail space features a self-service display for tobacco products, electronic  
76 cigarette products, or nicotine products.

77 ~~[(i)]~~ (h) "Self-service display" means the same as that term is defined in Section  
78 76-10-105.1.

79 ~~[(j)]~~ (i) "Tobacco product" means:

80 (i) a tobacco product as defined in Section 76-10-101; or

81 (ii) tobacco paraphernalia as defined in Section 76-10-101.

82 (2) The regulation of a retail tobacco specialty business is an exercise of the police  
83 powers of the state by the state or by delegation of the state's police powers to other  
84 governmental entities.

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

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

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

- 93 (i) 1,000 feet of a community location;
- 94 (ii) 600 feet of another retail tobacco specialty business; or
- 95 (iii) 600 feet from property used or zoned for:
  - 96 (A) agriculture use; or
  - 97 (B) residential use.

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

102 (5) A municipality may not issue or renew a license for a person to conduct business as  
103 a retail tobacco specialty business until the person provides the municipality with proof that the  
104 retail tobacco specialty business has:

105 (a) a valid permit for a retail tobacco specialty business issued under Title 26B,  
106 Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the  
107 local health department having jurisdiction over the area in which the retail tobacco specialty  
108 business is located; and

- 109 (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax  
110 Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and
- 111 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid  
112 license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an  
113 electronic cigarette product or a nicotine product.

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

- 115 (i) requires a municipality to issue a retail tobacco specialty business license; or
- 116 (ii) prohibits a municipality from adopting more restrictive requirements on a person  
117 seeking a license or renewal of a license to conduct business as a retail tobacco specialty  
118 business.

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

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

123 (ii) if a licensee violates federal law or federal regulations restricting the sale and  
124 distribution of tobacco products or electronic cigarette products to protect children and  
125 adolescents;

126 (iii) upon the recommendation of the department or a local health department under  
127 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine  
128 Products; or

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

130 (7) (a) A retail tobacco specialty business is exempt from Subsection (4) if:

131 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a  
132 license to conduct business as a retail tobacco specialty business;

133 (ii) the retail tobacco specialty business is operating in a municipality in accordance  
134 with all applicable laws except for the requirement in Subsection (4); and

135 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within  
136 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

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

139 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse  
140 or permanent revocation;

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

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

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

148 (A) Section [26B-7-503](#);

149 (B) zoning ordinances;

150 (C) building codes; and

151 (D) the requirements of the license described in Subsection (7)(a)(i).

152 (c) A retail tobacco specialty business that does not qualify for an exemption under  
153 Subsection (7)(a) is exempt from Subsection (4) if:

154 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a  
155 general tobacco retailer permit or a retail tobacco specialty business permit under Title 26B,  
156 Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the  
157 local health department having jurisdiction over the area in which the retail tobacco specialty  
158 business is located;

159 (ii) the retail tobacco specialty business is operating in the municipality in accordance  
160 with all applicable laws except for the requirement in Subsection (4); and

161 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within  
162 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

163 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may  
164 maintain an exemption under Subsection (7)(c) if:

165 (i) on or before December 31, 2020, the retail tobacco specialty business receives a  
166 retail tobacco specialty business permit from the local health department having jurisdiction  
167 over the area in which the retail tobacco specialty business is located;

168 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse  
169 or permanent revocation;

170 (iii) the retail tobacco specialty business does not close for business or otherwise  
171 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for  
172 more than 60 consecutive days;

173 (iv) the retail tobacco specialty business does not substantially change the business  
174 premises or business operation as the business existed when the retail tobacco specialty  
175 business received a permit under Subsection (7)(d)(i); and

176 (v) the retail tobacco specialty business maintains the right to operate under the terms  
177 of other applicable laws, including:

178 (A) Section [26B-7-503](#);

179 (B) zoning ordinances;

180 (C) building codes; and

181 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

182 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is  
183 located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high,  
184 or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco  
185 specialty business:

186 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use  
187 and located within a group of architecturally unified commercial establishments built on a site  
188 that is planned, developed, owned, and managed as an operating unit; and

189 (ii) continues to meet the requirements described in Subsection (7)(b) that are not  
190 directly related to the relocation described in this Subsection (7)(e).

191 Section 2. Section **17-50-333** is amended to read:

192 **17-50-333. Regulation of retail tobacco specialty business.**

193 (1) As used in this section:

194 (a) "Community location" means:

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

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

197 (iii) a trade or technical school;

198 (iv) a church;

199 (v) a public library;

200 (vi) a public playground;

201 (vii) a public park;

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

203 (ix) a public recreational facility;

204 (x) a public arcade; or

205 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

206 (b) "Department" means the Department of Health and Human Services created in

207 Section [26B-1-201](#).

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

209 [76-10-101](#).

210 [~~(d) "Flavored electronic cigarette product" means the same as that term is defined in~~

211 ~~Section [76-10-101](#).]~~

212            [(e)] (d) "Licensee" means a person licensed under this section to conduct business as a  
213 retail tobacco specialty business.

214            [(f)] (e) "Local health department" means the same as that term is defined in Section  
215 26A-1-102.

216            [(g)] (f) "Nicotine product" means the same as that term is defined in Section  
217 76-10-101.

218            [(h)] (g) "Retail tobacco specialty business" means a commercial establishment in  
219 which:

220            (i) sales of tobacco products, electronic cigarette products, and nicotine products  
221 account for more than 35% of the total quarterly gross receipts for the establishment;

222            (ii) 20% or more of the public retail floor space is allocated to the offer, display, or  
223 storage of tobacco products, electronic cigarette products, or nicotine products;

224            (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of  
225 tobacco products, electronic cigarette products, or nicotine products;

226            (iv) the commercial establishment:

227            (A) holds itself out as a retail tobacco specialty business; and

228            (B) causes a reasonable person to believe the commercial establishment is a retail  
229 tobacco specialty business; or

230            [~~(v) any flavored electronic cigarette product is sold; or~~]

231            [(vi)] (v) the retail space features a self-service display for tobacco products, electronic  
232 cigarette products, or nicotine products.

233            [(i)] (h) "Self-service display" means the same as that term is defined in Section  
234 76-10-105.1.

235            [(j)] (i) "Tobacco product" means:

236            (i) the same as that term is defined in Section 76-10-101; or

237            (ii) tobacco paraphernalia as defined in Section 76-10-101.

238            (2) The regulation of a retail tobacco specialty business is an exercise of the police  
239 powers of the state by the state or by the delegation of the state's police power to other  
240 governmental entities.

241            (3) (a) A person may not operate a retail tobacco specialty business in a county unless  
242 the person obtains a license from the county in which the retail tobacco specialty business is



243 located.

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

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

- 249 (i) 1,000 feet of a community location;
- 250 (ii) 600 feet of another retail tobacco specialty business; or
- 251 (iii) 600 feet from property used or zoned for:
  - 252 (A) agriculture use; or
  - 253 (B) residential use.

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

258 (5) A county may not issue or renew a license for a person to conduct business as a  
259 retail tobacco specialty business until the person provides the county with proof that the retail  
260 tobacco specialty business has:

261 (a) a valid permit for a retail tobacco specialty business issued under Title 26B,  
262 Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the  
263 local health department having jurisdiction over the area in which the retail tobacco specialty  
264 business is located; and

265 (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax  
266 Commission in accordance with Section [59-14-201](#) or [59-14-301](#) to sell a tobacco product; or  
267 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid  
268 license issued by the State Tax Commission in accordance with Section [59-14-803](#) to sell an  
269 electronic cigarette product or a nicotine product.

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

- 271 (i) requires a county to issue a retail tobacco specialty business license; or
- 272 (ii) prohibits a county from adopting more restrictive requirements on a person seeking  
273 a license or renewal of a license to conduct business as a retail tobacco specialty business.

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

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

278 (ii) if a licensee violates federal law or federal regulations restricting the sale and  
279 distribution of tobacco products or electronic cigarette products to protect children and  
280 adolescents;

281 (iii) upon the recommendation of the department or a local health department under  
282 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine  
283 Products; or

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

285 (7) (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is  
286 exempt from Subsection (4) if:

287 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a  
288 license to conduct business as a retail tobacco specialty business;

289 (ii) the retail tobacco specialty business is operating in a county in accordance with all  
290 applicable laws except for the requirement in Subsection (4); and

291 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within  
292 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

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

295 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse  
296 or permanent revocation;

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

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

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

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

- 305 (B) zoning ordinances;
- 306 (C) building codes; and
- 307 (D) the requirements of the license described in Subsection (7)(a)(i).
- 308 (c) A retail tobacco specialty business that does not qualify for an exemption under
- 309 Subsection (7)(a) is exempt from Subsection (4) if:
- 310 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
- 311 general tobacco retailer permit or a retail tobacco specialty business permit under Title 26,
- 312 Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local
- 313 health department having jurisdiction over the area in which the retail tobacco specialty
- 314 business is located;
- 315 (ii) the retail tobacco specialty business is operating in the county in accordance with
- 316 all applicable laws except for the requirement in Subsection (4); and
- 317 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
- 318 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.
- 319 (d) A retail tobacco specialty business may maintain an exemption under Subsection
- 320 (7)(c) if:
- 321 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
- 322 retail tobacco specialty business permit from the local health department having jurisdiction
- 323 over the area in which the retail tobacco specialty business is located;
- 324 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse
- 325 or permanent revocation;
- 326 (iii) the retail tobacco specialty business does not close for business or otherwise
- 327 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
- 328 more than 60 consecutive days;
- 329 (iv) the retail tobacco specialty business does not substantially change the business
- 330 premises or business operation as the business existed when the retail tobacco specialty
- 331 business received a permit under Subsection (7)(d)(i); and
- 332 (v) the retail tobacco specialty business maintains the right to operate under the terms
- 333 of other applicable laws, including:
- 334 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 335 (B) zoning ordinances;

336 (C) building codes; and

337 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

338 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is  
339 located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high,  
340 or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco  
341 specialty business:

342 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use  
343 and located within a group of architecturally unified commercial establishments built on a site  
344 that is planned, developed, owned, and managed as an operating unit; and

345 (ii) continues to meet the requirements described in Subsection (7)(b) that are not  
346 directly related to the relocation described in this Subsection (7)(e).

347 Section 3. Section **26A-1-131** is enacted to read:

348 **26A-1-131. Electronic cigarette registry enforcement.**

349 (1) (a) A local health department may examine the books, papers, and records of any  
350 ~~H→ [distributor, wholesaler, or dealer]~~ **retailer** ←H in this state, for the purpose of determining  
350a compliance with

351 Section [59-14-810](#).

352 (b) A local health department may make the inspections and examinations at any time  
353 during ordinary business hours, and may inspect the premises and all desks, safes, vaults, and  
354 other fixtures and furniture contained in or upon the premises for the purpose of ascertaining  
355 whether an electronic cigarette product is held or possessed in violation of Section [59-14-810](#).

356 (c) Unannounced follow-up examinations of all H→ ~~[noncompliant distributors,~~  
357 ~~wholesalers, and]~~ ←H retailers are required within 30 days after any violation of Section [59-14-810](#).

358 (d) A local health department shall publish the results of all examinations at least  
359 annually and shall make the results available to the public on request.

360 (e) Any electronic cigarette product offered for sale in violation of Section [59-14-810](#)  
361 is declared to be a contraband good H→ **and shall be immediately embargoed by a local health**  
361a **department** ←H .

362 (f) An electronic cigarette product described in Subsection (1)(e) may be H→ **[seized]**  
362a **embargoed** ←H  
363 without a warrant by:

364 (i) a local health department; or

365 (ii) a law enforcement agency of this state if directed by a local health department with  
366 jurisdiction over where the product is found.

367 (g) The cost of ~~Ĥ→ [such seizure, forfeiture;]~~ embargoing ~~←Ĥ~~ and destruction shall be  
 367a borne by the ~~Ĥ→ [person~~

368 ~~from whom the products are confiscated]~~ retailer ~~←Ĥ~~ .

369 (h) In an action brought under this section, a local health department may recover  
 370 reasonable expenses incurred in investigating and preparing the case and attorney fees.

370a ~~Ĥ→~~ **(i) A retailer shall remove any embargoed electronic cigarette product from the retailer's**  
 370b **active inventory and work with the wholesaler or distributor to return or dispose the electronic**  
 370c **cigarette product.** ~~←Ĥ~~

371 (2) (a) A local health department shall disclose to the attorney general any information  
 372 received under this section which is requested by the attorney general for purposes of  
 373 determining compliance with and enforcing the provisions of this section or Section [59-14-810](#).

374 (b) A local health department and attorney general shall share with each other  
 375 information received under this section and Section [59-14-810](#) or corresponding laws of other  
 376 states.

377 (c) A local health department shall provide any necessary information to the State Tax  
 378 Commission regarding violations of Section [59-14-810](#).

378a ~~Ĥ→~~ **(3) A monetary penalty assessed to a retailer by a local health department under this**  
 378b **section shall be doubled if the retailer fails to provide documentation establishing a**  
 378c **clear chain of custody back to the manufacturer.** ~~←Ĥ~~

379 Section 4. Section [26B-7-505](#) is amended to read:

380 **26B-7-505. Electronic cigarette products -- Labeling -- Requirements to sell --**  
 381 **Advertising -- Labeling of nicotine products containing nicotine.**

382 (1) The department shall, in consultation with a local health department and with input  
 383 from members of the public, establish by rule made in accordance with Title 63G, Chapter 3,  
 384 Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance  
 385 that is not a manufacturer sealed electronic cigarette substance regarding:

- 386 (a) labeling;
- 387 (b) nicotine content;
- 388 (c) packaging; and
- 389 (d) product quality.

390 (2) On or before January 1, 2021, the department shall, in consultation with a local  
 391 health department and with input from members of the public, establish by rule made in  
 392 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements  
 393 to sell a manufacturer sealed electronic cigarette product regarding:

- 394 (a) labeling;
- 395 (b) nicotine content;
- 396 (c) packaging; and

397

⊕(d) product quality.

398 (3) (a) A person may not sell an electronic cigarette substance unless the electronic  
 399 cigarette substance complies with the requirements established by the department under  
 400 Subsection (1).

401 (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic  
 402 cigarette product unless the manufacturer sealed electronic cigarette product complies with the  
 403 requirements established by the department under Subsection (2).

404 (c) Notwithstanding Subsections (3)(a) and (3)(b), ~~H~~→ **beginning on January 1, 2025,** ←~~H~~  
 404a a person may not sell an electronic  
 405 cigarette product that is not a premarket authorized or pending electronic cigarette product as  
 406 that term is defined in Section [76-10-101](#).

407 (4) (a) A local health department may not enact a rule or regulation regarding  
 408 electronic cigarette substance labeling, nicotine content, packaging, or product quality that is  
 409 not identical to the requirements established by the department under Subsections (1) and (2).

410 (b) Except as provided in Subsection (4)(c), a local health department may enact a rule  
 411 or regulation regarding electronic cigarette substance manufacturing.

412 (c) A local health department may not enact a rule or regulation regarding a  
 413 manufacturer sealed electronic cigarette product.

414 (5) A person may not advertise an electronic cigarette product as a tobacco cessation  
 415 device.

416 (6) ~~(a)~~ Any nicotine product shall contain the statement described in Subsection ~~[(7)]~~  
 417 ~~(6)(b)~~ if the nicotine product:

418 ~~[(a)]~~ ~~(i)~~ ~~[(i)]~~ ~~(A)~~ is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related  
 419 federal regulations; or

420 ~~[(i)]~~ ~~(B)~~ is not otherwise required under federal or state law to contain a nicotine  
 421 warning; and

422 ~~[(b)]~~ ~~(ii)~~ contains nicotine.

423 ~~[(7)]~~ ~~(b)~~ A statement shall appear on the exterior packaging of a nicotine product  
 424 described in Subsection ~~(6)(a)~~ as follows:

425 "This product contains nicotine."

426 Section 5. Section **59-14-807** is amended to read:

427 **59-14-807. Electronic Cigarette Substance and Nicotine Product Proceeds**  
 428 **Restricted Account.**

429 (1) There is created within the General Fund a restricted account known as the  
430 "Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account."  
431 (2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted  
432 Account consists of:  
433 (a) revenue collected from the tax imposed by Section 59-14-804;  
434 (b) fees and penalties collected under Section 59-14-810;  
435 ~~(b)~~ (c) all money received by the attorney general or the Department of Commerce as  
436 a result of any judgment, settlement, or compromise of claims pertaining to alleged violations  
437 of law related to the manufacture, marketing, distribution, or sale of electronic cigarette  
438 products, as defined in Section 76-10-101:  
439 (i) if the total amount of the judgment, settlement, or compromise received by the state  
440 exceeds \$1,000,000; and  
441 (ii) after reimbursement to the attorney general and the Department of Commerce for  
442 expenses related to the matters described in Subsection ~~(2)(b)~~ (2)(c); and  
443 ~~(c)~~ (d) amounts appropriated by the Legislature.  
444 (3) (a) For each fiscal year and subject to appropriation by the Legislature, the Division  
445 of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product  
446 Proceeds Restricted Account:  
447 (i) \$2,000,000, which shall be allocated to the local health departments by the  
448 Department of Health and Human Services using the formula created in accordance with  
449 Section 26A-1-116;  
450 (ii) \$2,000,000 to the Department of Health and Human Services for statewide  
451 cessation programs and prevention education;  
452 (iii) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed  
453 at disrupting organizations and networks that provide tobacco products, electronic cigarette  
454 products, nicotine products, and other illegal controlled substances to minors;  
455 (iv) \$3,000,000, which shall be allocated to the local health departments by the  
456 Department of Health and Human Services using the formula created in accordance with  
457 Section 26A-1-116;  
458 (v) \$5,084,200 to the State Board of Education for school-based prevention programs;  
459 [and]



460 (vi) \$2,000,000 to the Department of Health and Human Services for alcohol, tobacco,  
461 and other drug prevention, reduction, cessation, and control programs that promote unified  
462 messages and make use of media outlets, including radio, newspaper, billboards, and  
463 television[-]; and

464 (vii) of the money deposited under Section 59-14-810:

465 (A) to the commission, in an amount equal to the amount necessary to create and  
466 maintain the registry described in Section 59-14-810;

467 (B) to the Department of Health and Human Services, in an amount necessary for  
468 completing duties described in Section 59-14-810; and

469 (C) to the Department of Health and Human Services, the remainder to be divided  
470 among the local health departments for inspection and enforcement described in Sections  
471 26A-1-131 and 59-14-810.

472 (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds  
473 Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the  
474 distribution amounts shall be adjusted proportionately.

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

477 (i) the regulation provisions described in Section 26B-7-505;

478 (ii) the labeling requirement described in Section 26B-7-505; and

479 (iii) the penalty provisions described in Section 26B-7-518.

480 (b) The Department of Health and Human Services shall use the money received in  
481 accordance with Subsection (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana, and Other  
482 Drug Prevention Program created in Section 26B-1-428.

483 (c) The local health departments shall use the money received in accordance with  
484 Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug  
485 Prevention Grant Program created in Section 26A-1-129.

486 (d) The State Board of Education shall use the money received in accordance with  
487 Subsection (3)(a)(v) to distribute to local education agencies to pay for:

488 (i) (A) stipends for positive behaviors specialists as described in Subsection  
489 53G-10-407(4)(a)(i);

490 (B) the cost of administering the positive behaviors plan as described in Subsection

491 [53G-10-407](#)(4)(a)(ii); and

492 (C) the cost of implementing an Underage Drinking and Substance Abuse Prevention  
493 Program in grade 4 or 5, as described in Subsection [53G-10-406](#)(3)(b); or

494 (ii) a comprehensive prevention plan, as that term is defined in Section [53F-2-525](#).

495 (5) (a) The fund shall earn interest.

496 (b) All interest earned on fund money shall be deposited into the fund.

497 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette  
498 Substance and Nicotine Product Proceeds Restricted Account after the distribution described in  
499 Subsection (3) may only be used for:

500 (a) funding commission personnel to enforce compliance with the tax collection  
501 requirements of this part; and

502 (b) programs and activities related to the prevention and cessation of electronic  
503 cigarette, nicotine products, marijuana, and other drug use.

504 Section 6. Section **59-14-810** is enacted to read:

505 **59-14-810. Electronic cigarette product registry.**

506 (1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product  
507 that is sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar  
508 intermediary or intermediaries, shall certify under penalty of perjury on a form and in the  
509 manner prescribed by the commission, that:

510 (a) the manufacturer agrees to comply with this section; and

511 (b) the electronic cigarette product is a premarket authorized or pending electronic  
512 cigarette product as defined in Section [76-10-101](#) ~~H~~→ **and will not be illegal to be sold in**  
512a **the state as of January 1, 2025** ←~~H~~ .

513 (2) When submitting the certification a manufacturer shall submit a form that  
514 separately lists each electronic cigarette product that is sold in this state.

515 (3) (a) Each certification form shall include:

516 (i) the name of the electronic cigarette product, nicotine content level by percentage,  
517 and any flavors contained in the product;

518 (ii) (A) a copy of the order granting a premarket tobacco product application of the  
519 electronic cigarette product by the United States Food and Drug Administration under 21

520 U.S.C. Sec. 387j(c)(1)(A)(i); or

521 (B) evidence that the premarket tobacco product application for the electronic cigarette

522 product or nicotine product was submitted to the United States Food and Drug Administration  
523 before September 9, 2020, and a final authorization or order has not yet taken effect;

524 (iii) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added  
525 to the registry in the first instance; and

526 (iv) information described in Subsection (10) if applicable.

527 (b) The commission shall make the materials submitted under Subsection (3)(a)  
528 available to the Department of Health and Human Services for review and approval.

529 (c) A manufacturer required to submit a certification form under this section shall  
530 notify the commission and the Department of Health and Human Services in a manner  
531 prescribed by the commission within 30 days of any material change making the certification  
532 form no longer accurate, including:

533 (i) the issuance or denial of a marketing authorization or other order by the United  
534 States Food and Drug Administration under 21 U.S.C. Sect. 387j; or

535 (ii) any other order or action by the United States Food and Drug Administration or any  
536 court that affects the ability of the electronic cigarette product to be introduced or delivered  
537 into interstate commerce for commercial distribution in the United States.

538 (d) On or before January 31 of each year and in a manner prescribed by the  
539 commission, a manufacturer shall:

540 (i) recertify that the information contained in the certification is correct and accurate;

541 (ii) correct or amend information if necessary; and

542 (iii) pay a \$250 nonrefundable fee for each electronic cigarette product on the registry  
543 that is manufactured by the manufacturer.

544 (e) A manufacturer may amend a certification, including to add additional electronic  
545 cigarette products to the registry, if all requirements of this section are met.

546 (f) The commission shall:

547 (i) provide an electronic notification to a manufacturer that has not submitted a  
548 recertification under Subsection (3)(d); and

549 (ii) remove a manufacturer or an electronic cigarette product that is not recertified from  
550 the registry by March 15.

551 (4) (a) The Department of Health and Human Services shall review materials described  
552 in Subsection (3)(a) and notify the commission regarding whether an electronic cigarette

553 product should be included in the registry.

554 (b) On or before October 1, 2024, the commission shall make publicly available on the  
 555 commission's website a registry that lists each electronic cigarette product manufacturer and  
 556 each electronic cigarette product for which certification forms have been approved by the  
 557 Department of Health and Human Services.

558 (c) An electronic cigarette product may not be listed on the registry unless the  
 559 Department of Health and Human Services determines the requirements of Subsection (3)(a)  
 560 are met.

561 (5) (a) If the Department of Health and Human Services obtains information that an  
 562 electronic cigarette product should not be listed in the registry, the Department of Health and  
 563 Human Services shall provide the manufacturer notice and an opportunity to cure deficiencies  
 564 before notifying the commission to remove the manufacturer or products from the registry.

565 (b) Except as provided in Subsection (5)(c), the Department of Health and Human  
 566 Services shall comply with Title 63G, Chapter 4, Administrative Procedures Act, before  
 567 notifying the commission to remove an electronic cigarette product or manufacturer from the  
 568 registry.

569 (c) Subsection (5)(b) does not apply to a manufacturer failing:

570 (i) to decertify an electronic cigarette product;

571 (ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or

572 (iii) to comply with Subsection (10).

573 (6) (a) If a product is removed from the registry, each retailer, distributor, and  
 574 wholesaler shall have 30 days from the day on which the product is removed from the registry  
 575 to remove the product from any inventory and return the product to the manufacturer for  
 576 disposal.

577 (b) After the period described in Subsection (6)(a), any electronic cigarette product of a  
 578 manufacturer identified in the notice of removal are contraband and are subject to penalties  
 579 under Subsection (8) and seizure, forfeiture, and destruction under Section [26A-1-131](#).

580 (7) (a) Beginning on ~~H → [November 1, 2024]~~ **January 1, 2025** ← H , a person may not sell  
 580a or offer for retail sale an  
 581 electronic cigarette product in this state that is not included in the registry.

582 (b) A manufacturer may not sell, either directly or through a distributor, wholesaler,  
 583 retailer, or similar intermediary or intermediaries, an electronic cigarette product in this state

584 that is not included in the registry.

585 (8) (a) A wholesaler, distributor, or retailer who sells or offers for retail sale an  
586 electronic cigarette product in this state that is not included in the registry shall be subject to a  
587 civil penalty of:

588 (i) \$1,000 for each product offered for sale in violation of this section; and

589 (ii) \$100 per day until the offending product is removed from the market or until the  
590 offending product is properly listed on the registry.

591 (b) The commission shall suspend the person's license issued under Section [59-14-803](#)  
592 for a violation of Subsection (8)(a) as follows:

593 (i) for a second violation within a 12-month period, at least 14 days;

594 (ii) for a third violation within a 12-month period, at least 60 days; or

595 (iii) for a fourth violation within a 12-month period, at least one year.

596 (c) A manufacturer whose electronic cigarette products are not listed in the registry and  
597 are sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar  
598 intermediary or intermediaries, is subject to a civil penalty of:

599 (i) \$1,000 for each product offered for retail sale in violation of this section; and

600 (ii) \$100 per day until the offending product is removed from the market or until the  
601 offending product is properly listed on the registry.

602 (d) A manufacturer that falsely represents any information required by a certification  
603 form described in this section shall be guilty of a class C misdemeanor for each false  
604 representation.

605 (e) A repeated violation of this section shall constitute a deceptive act or practice as  
606 provided in Sections [13-11-4](#) and [13-11a-3](#) and shall be subject to any remedies or penalties  
607 available for a violation of those sections.

608 (9) (a) To assist in ensuring compliance and enforcement of this section and Section  
609 [26A-1-131](#), the commission shall disclose to the following entities, upon request, any  
610 information obtained under this section:

611 (i) the Department of Health and Human Services;

612 (ii) a local health department; or

613 (iii) the attorney general.

614 (b) The commission and attorney general shall share with each other information

615 received under this section, or corresponding laws of other states.

616 (10) (a) (i) The commission may not list a nonresident manufacturer of an electronic  
617 cigarette product in the registry unless:

618 (A) the nonresident manufacturer has registered to do business in the state as a foreign  
619 corporation or business entity; or

620 (B) the nonresident manufacturer appoints and maintains without interruption the  
621 services of an agent in this state to receive any service of process on behalf of the  
622 manufacturer.

623 (b) The nonresident manufacturer shall provide the name, address, telephone number  
624 of the agent to the commission.

625 (c) (i) A nonresident manufacturer shall provide notice to the commission 30 days  
626 before the termination of the authority of an agent and shall further provide proof to the  
627 satisfaction of the commission of the appointment of a new agent no less than five calendar  
628 days prior to the termination of an existing agent appointment.

629 (ii) In the event an agent terminates an agency appointment, the manufacturer shall  
630 notify the commission of the termination within five calendar days and shall include proof to  
631 the satisfaction of the commission of the appointment of a new agent.

632 (11) Before May 31 of each year, the commission and the Department of Health and  
633 Human Services shall provide a report to the Revenue and Taxation Interim Committee and the  
634 Health and Human Services Interim Committee regarding:

635 (a) the status of the registry;

636 (b) manufacturers and products included in the registry;

637 (c) revenue and expenditures related to administration of this section; and

638 (d) enforcement activities undertaken under this section and Section [26A-1-131](#).

639 (12) All fees and penalties collected under this section shall be used for administration  
640 and enforcement of this section and Section [26A-1-131](#).

641 (13) The commission, in consultation with the Department of Health and Human  
642 Services, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
643 Rulemaking Act, to implement this section.

644 Section 7. Section **76-10-101** is amended to read:

645 **76-10-101. Definitions.**

646 As used in this part:

647 (1) (a) "Alternative nicotine product" means a product, other than a cigarette, a  
648 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a  
649 tobacco product, that:

650 (i) contains nicotine;

651 (ii) is intended for human consumption;

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

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

655 (b) "Alternative nicotine product" includes:

656 (i) pure nicotine;

657 (ii) snortable nicotine;

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

659 (iv) nicotine-laced food and beverage.

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

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

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

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

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

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

672 (i) any electronic oral device:

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

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

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

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

677 (4)(a)(i).

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

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

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

681 (A) an e-cigarette;

682 (B) an e-cigar;

683 (C) an e-pipe; or

684 (D) any other product name or descriptor, if the function of the product meets the

685 definition of Subsection (4)(a).

686 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is  
687 defined in Section 26B-4-201.

688 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette  
689 substance, or a prefilled electronic cigarette.

690 (6) "Electronic cigarette substance" means any substance, including liquid containing  
691 nicotine, used or intended for use in an electronic cigarette.

692 (7) (a) "Flavored electronic cigarette product" means an electronic cigarette product  
693 that has a taste or smell that is distinguishable by an ordinary consumer either before or during  
694 use or consumption of the electronic cigarette product.

695 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that  
696 is labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa,  
697 dessert, alcoholic beverage, herb, ~~or~~ spice ~~or~~ mint.

698 (c) "Flavored electronic cigarette product" does not include an electronic cigarette  
699 product that has a taste or smell of only tobacco ~~or~~ mint, or menthol.

700 ~~[(i) has a taste or smell of only tobacco, mint, or menthol; or]~~

701 ~~[(ii) has been approved by an order granting a premarket tobacco product application of~~  
702 ~~the electronic cigarette product by the United States Food and Drug Administration under 21~~  
703 ~~U.S.C. Sec. 387j(c)(1)(A)(i).]~~

704 (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made  
705 synthetically or derived from tobacco or other plants.

706 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic  
707 nicotine product.



708 (10) (a) "Nontherapeutic nicotine device" means a device that:

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

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

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

714 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a  
715 nontherapeutic nicotine nasal spray.

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

717 (a) contains nicotine;

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

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

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

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

724 (13) "Place of business" includes:

725 (a) a shop;

726 (b) a store;

727 (c) a factory;

728 (d) a public garage;

729 (e) an office;

730 (f) a theater;

731 (g) a recreation hall;

732 (h) a dance hall;

733 (i) a poolroom;

734 (j) a cafe;

735 (k) a cafeteria;

736 (l) a cabaret;

737 (m) a restaurant;

738 (n) a hotel;

- 739 (o) a lodging house;  
 740 (p) a streetcar;  
 741 (q) a bus;  
 742 (r) an interurban or railway passenger coach;  
 743 (s) a waiting room; and  
 744 (t) any other place of business.

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

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

749 (16) "Premarket authorized or pending electronic cigarette product" means an  
 750 electronic cigarette product that:

751 (a) ~~Ĥ~~ → (i) ← ~~Ĥ~~ has been approved by an order granting a premarket tobacco product  
 751a application of  
 752 the electronic cigarette product by the United States Food and Drug Administration under 21  
 753 U.S.C. Sec. 387j(c)(1)(A)(i); or

754 ~~Ĥ~~ → ~~(b)(i)~~ (ii)(A) ← ~~Ĥ~~ was marketed in the United States on or before August 8, 2016;

755 ~~Ĥ~~ → ~~(iii)~~ (B) ← ~~Ĥ~~ the manufacturer submitted a premarket tobacco product application for  
 755a the  
 756 electronic cigarette product to the United States Food and Drug Administration under 21  
 757 U.S.C. Sec. 387j on or before September 9, 2020; and

758 ~~Ĥ~~ → ~~(iii)~~ (C) ← ~~Ĥ~~ has an application described in Subsection ~~Ĥ~~ → ~~(16)(b)(iii)~~ (16)(a)(ii)(B)  
 758a ← ~~Ĥ~~ that either remains under  
 759 review by the United States Food and Drug Administration or a final decision on the  
 760 application has not taken effect ~~Ĥ~~ → [;] ; and

760a **(b) does not exceed:**

760b **(i) 3.25% nicotine by weight per container; or**

760c **(ii) a nicotine concentration of 32.5 milligrams per milliliter ← ~~Ĥ~~**

761 ~~(16)~~ (17) "Retail tobacco specialty business" means the same as that term is defined  
 762 in Section 26B-7-501.

763 ~~(17)~~ (18) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or  
 764 other lighted smoking equipment.

765 ~~(18)~~ (19) (a) "Tobacco paraphernalia" means equipment, product, or material of any  
 766 kind that is used, intended for use, or designed for use to package, repackage, store, contain,  
 767 conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette  
 768 substance, or a nontherapeutic nicotine device substance into the human body.

769 (b) "Tobacco paraphernalia" includes:

- 770 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
- 771 screens, permanent screens, hashish heads, or punctured metal bowls;
- 772 (ii) water pipes;
- 773 (iii) carburetion tubes and devices;
- 774 (iv) smoking and carburetion masks;
- 775 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that
- 776 has become too small or too short to be held in the hand;
- 777 (vi) chamber pipes;
- 778 (vii) carburetor pipes;
- 779 (viii) electric pipes;
- 780 (ix) air-driven pipes;
- 781 (x) chillums;
- 782 (xi) bongs; and
- 783 (xii) ice pipes or chillers.

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

785 ~~[(19)]~~ (20) "Tobacco product" means:

- 786 (a) a cigar;
- 787 (b) a cigarette; or
- 788 (c) tobacco in any form, including:
  - 789 (i) chewing tobacco; and
  - 790 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

791 ~~[(20)]~~ (21) "Tobacco retailer" means:

- 792 (a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or
- 793 (b) a retail tobacco specialty business.

794 Section 8. Section 76-10-113 is amended to read:

795 **76-10-113. Prohibition on distribution of flavored electronic cigarette products --**  
 796 **Prohibition of electronic cigarette products without federal authorization.**

797 (1) ~~Ĥ~~→ [ † ] ~~[Ĥ]~~ Subject to Subsection (2), it is unlawful for a tobacco retailer that is not a  
 797a retail tobacco specialty business to  
 798 give, distribute, sell, offer for sale, or furnish a flavored electronic cigarette product to any  
 799 person. [ † ] ~~←Ĥ~~ ~~Ĥ~~→ [Ĥ]

799a (2) Notwithstanding Subsection (1), and beginning on January 1, 2025, it ←Ĥ is unlawful for a  
 799b person to give, distribute, sell, offer for sale, or furnish to any  
 800 person a flavored electronic cigarette product.

801            ~~H~~→ ~~[(2)–H]~~ **(3) Beginning on January 1, 2025, it** ←~~H~~ is unlawful for a person to give,  
801a distribute, sell, offer for sale, or furnish to any  
802 person an electronic cigarette product that is not a premarket authorized or pending electronic  
803 cigarette product.

804            ~~[(2)]~~ ~~H~~→ ~~[(3)]~~ **(4)** ←~~H~~ An individual who violates this section is guilty of:

- 805            (a) a class C misdemeanor for the first offense; and  
806            (b) a class B misdemeanor for any subsequent offense.

807            Section 9. **Effective date.**

808            This bill takes effect on July 1, 2024.