

**Senator Todd D. Weiler** proposes the following substitute bill:

**RETAIL TOBACCO SPECIALTY BUSINESS AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jen Plumb**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to retail tobacco specialty businesses.

**Highlighted Provisions:**

This bill:

- ▶ requires a retail tobacco specialty business to implement an electronic video monitoring system with certain features;
- ▶ modifies the permit fee for a retail tobacco specialty business;
- ▶ requires a retail tobacco specialty business to implement an identification verification system with certain features;
- ▶ requires a retail tobacco specialty business to create an inventory control system for tracking flavored electronic cigarette products; and
- ▶ requires a retail tobacco specialty business to only engage in face-to-face sales for certain products.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



26 AMENDS:

27 [26B-7-509](#), as renumbered and amended by Laws of Utah 2023, Chapter 308

28 [26B-7-511](#), as renumbered and amended by Laws of Utah 2023, Chapter 308

29 [26B-7-521](#), as renumbered and amended by Laws of Utah 2023, Chapter 308

30 [76-10-105.1](#), as last amended by Laws of Utah 2021, Chapter 348

31 ENACTS:

32 [26B-7-522](#), Utah Code Annotated 1953

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

35 Section 1. Section [26B-7-509](#) is amended to read:

36 **[26B-7-509](#). Permit term and fees.**

37 (1) (a) The term of a permit issued to a retail tobacco specialty business is one year.

38 (b) The term of a permit issued to a general tobacco retailer is two years.

39 (2) (a) A local health department may not issue a permit until the applicant has paid a  
40 permit fee to the local health department of:

41 (i) for a general tobacco retailer:

42 [(i)] (A) \$30 for a new permit;

43 [(ii)] (B) \$20 for a permit renewal; or

44 [(iii)] (C) \$30 for reinstatement of a permit that has been revoked, suspended, or  
45 allowed to expire[-]; or

46 (ii) for a retail tobacco specialty business, \$10,000.

47 (b) A local health department that collects fees under Subsection (2)(a) shall use the  
48 fees to administer and enforce the permit requirements described in Sections [26B-7-506](#)  
49 through [~~[26B-7-521](#)~~] [26B-7-522](#).

50 (c) In addition to the fee described in Subsection (2)(a), a local health department may  
51 establish and collect a fee to perform a plan review for a retail tobacco specialty business  
52 permit.

53 (d) Payment of the fee described in Subsection (2)(a)(ii) is due after an initial  
54 application or a renewal application is approved.

55 (3) A permit holder may apply for a renewal of a permit no earlier than 30 days before  
56 the day on which the permit expires.

57 (4) A tobacco retailer that fails to renew a permit before the permit expires may apply  
58 to reinstate the permit by submitting to the local health department:

59 (a) the information required in Subsection 26B-7-508(3) and, if applicable, Subsection  
60 26B-7-508(4);

61 (b) the fee for the reinstatement of a permit; and

62 (c) a signed affidavit affirming that the tobacco retailer has not violated the  
63 prohibitions in Subsection 26B-7-507(1)(b) after the permit expired.

64 Section 2. Section 26B-7-511 is amended to read:

65 **26B-7-511. Permit requirements for a retail tobacco specialty business.**

66 (1) A retail tobacco specialty business shall:

67 (a) electronically verify proof of age for any individual that enters the premises of the  
68 business in accordance with Section 26B-7-521;

69 (b) except as provided in Subsection 76-10-105.1(4), prohibit any individual from  
70 entering the business if the individual is under 21 years old; ~~and~~

71 (c) prominently display at the retail tobacco specialty business a sign on the public  
72 entrance of the business that communicates:

73 (i) the prohibition on the presence of an individual under 21 years old in a retail  
74 tobacco specialty business in Subsection 76-10-105.1(4); and

75 (ii) the prohibition on the sale of tobacco products and electronic cigarette products to  
76 an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1,  
77 and 76-10-114[-]; and

78 (d) implement security standards that include an electronic video monitoring system  
79 with:

80 (i) at least one 19-inch or greater call-up monitor;

81 (ii) a printer, capable of producing a clear still photo from any video camera image;

82 (iii) video cameras with a recording resolution of at least 1280 x 720 pixels, or the  
83 equivalent for analog, that records continuously during business hours and for one hour before  
84 and after business hours, seven days a week, and is motion activated after business hours that  
85 provides coverage of:

86 (A) all points of entry; and

87 (B) each point-of-sale;

88 (iv) a method for storing each video recording from the video camera for at least 45  
89 days after the day on which the recording was taken:

90 (v) a surveillance system with:

91 (A) a storage device for locally stored footage secured in the business in a lock box,  
92 cabinet, closet, or secured in another manner, to protect from tampering or criminal theft; or

93 (B) a storage system on a remote server which has restricted access to protect from  
94 tampering;

95 (vi) a failure notification system that provides an audible or visual notification of an  
96 error within the electronic monitoring system; and

97 (vii) a date and time stamp embedded on video camera recordings.

98 (2) A retail tobacco specialty business may not:

99 (a) employ an individual under 21 years old to sell a tobacco product, an electronic  
100 cigarette product, or a nicotine product; or

101 (b) permit an employee under 21 years old to sell a tobacco product, an electronic  
102 cigarette product, or a nicotine product.

103 Section 3. Section **26B-7-521** is amended to read:

104 **26B-7-521. Verification of proof of age -- Verification of identification.**

105 (1) As used in this section:

106 (a) "Employee" means an employee of a retail tobacco specialty business.

107 (b) "Electronic verification program" means a technology used by a retail tobacco  
108 specialty business to confirm proof of age for an individual.

109 (2) A retail tobacco specialty business shall require that an employee verify proof of  
110 age as provided in this section.

111 (3) To comply with Subsection (2), an employee shall:

112 (a) request the individual present proof of age; and

113 (b) verify the validity of the proof of age electronically in accordance with Subsection

114 (4).

115 (4) (a) A retail tobacco specialty business shall use an electronic verification program  
116 to assist the business in complying with the requirements of this section.

117 (b) Beginning July 1, 2024, a retail tobacco specialty business shall use an  
118 identification verification system.

119           (c) The identification verification system described in Subsection (4)(b) shall analyze  
120 and conduct a forensic check of the front and back of a proof of identification for authentic  
121 security features to detect a fraudulent proof of identification, which shall include the ability to:

122           (i) read and identify ultraviolet and infrared images, microprint, laser perforation,  
123 holograms, and other proof of identification specific security features;

124           (ii) scan and analyze a proof of identification issued from any state or territory within  
125 the United States;

126           (iii) scan and read magstripe, 2D barcodes, and machine readable zones on United  
127 States passport cards;

128           (iv) display easy to read results of the identification analysis and alert staff when a  
129 proof of identification appears to be fake or false;

130           (v) detect and alert to an expired or invalid proof of identification;

131           (vi) ability to identify and alert to pass-back or proof of identification sharing; and

132           (vii) to capture a real time image of the individual presenting the proof of  
133 identification.

134           (5) (a) A retail tobacco specialty business may not disclose information obtained under  
135 this section except as provided under this part.

136           (b) Information obtained under this section:

137           (i) shall be kept for at least 180 days; and

138           (ii) is subject to inspection upon request by a peace officer or the representative of an  
139 enforcing agency.

140           (6) (a) If an employee does not verify proof of age under this section, the employee  
141 may not permit an individual to:

142           (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

143           (ii) purchase a tobacco product or an electronic cigarette product.

144           (b) In accordance with Subsection [76-10-105.1\(4\)](#), an individual who is under 21 years  
145 old may be permitted to enter a retail tobacco specialty business if the individual is:

146           (i) accompanied by a parent or legal guardian who provides proof of age; or

147           (ii) (A) present at the retail tobacco specialty business solely for the purpose of  
148 providing a commercial service to the retail tobacco specialty business, including making a  
149 commercial delivery;

150 (B) monitored by the proprietor of the retail tobacco specialty business or an employee  
151 of the retail tobacco specialty business; and

152 (C) not permitted to make any purchase or conduct any commercial transaction other  
153 than the service described in Subsection (6)(b)(ii)(A).

154 (7) To determine whether the individual described in Subsection (2) is 21 years old or  
155 older, the following may request an individual described in Subsection (2) to present proof of  
156 age:

- 157 (a) an employee;
- 158 (b) a peace officer; or
- 159 (c) a representative of an enforcing agency.

160 Section 4. Section **26B-7-522** is enacted to read:

161 **26B-7-522. Flavored electronic cigarette product inventory control system**  
162 **requirements.**

163 (1) As used in this section:

164 (a) "Flavored electronic cigarette product" means the same as that term is defined in  
165 Section [76-10-101](#).

166 (b) "RFID" means radio-frequency identification.

167 (2) Beginning January 1, 2025, a retail tobacco specialty business shall have in place an  
168 inventory control system that tracks flavored electronic cigarette products.

169 (3) The inventory control system shall have an RFID tag attached to each flavored  
170 electronic cigarette product package label in which:

171 (a) each flavored electronic cigarette product is issued a unique identification number  
172 via an RFID tag; and

173 (b) the tag is placed in a position that can be clearly read and include the following  
174 information:

175 (i) a unique identification number;

176 (ii) the name of the retail tobacco specialty business that sells the product; and

177 (iii) date of sale of the flavored electronic cigarette product.

178 (4) A retail tobacco specialty business shall maintain the information required by this  
179 section for at least 180 days after the day on which the flavored electronic cigarette product  
180 leaves the retail tobacco specialty business.

181 Section 5. Section 76-10-105.1 is amended to read:

182 **76-10-105.1. Requirement of direct, face-to-face sale of a tobacco product, an**  
183 **electronic cigarette product, or a nicotine product -- Minors not allowed in tobacco**  
184 **specialty shop -- Penalties.**

185 (1) As used in this section:

186 (a) (i) "Face-to-face exchange" means a transaction made in person between an  
187 individual and a retailer or retailer's employee.

188 (ii) "Face-to-face exchange" does not include a sale through a:

189 (A) vending machine; ~~[or]~~

190 (B) self-service display~~[-];~~ or

191 (C) a drive-through.

192 (b) "Retailer" means a person who:

193 (i) sells a tobacco product, an electronic cigarette product, or a nicotine product to an  
194 individual for personal consumption; or

195 (ii) operates a facility with a vending machine that sells a tobacco product, an  
196 electronic cigarette product, or a nicotine product.

197 (c) "Self-service display" means a display of a tobacco product, an electronic cigarette  
198 product, or a nicotine product to which the public has access without the intervention of a  
199 retailer or retailer's employee.

200 (2) Except as provided in Subsection (3), a retailer may sell a tobacco product, an  
201 electronic cigarette product, or a nicotine product only in a face-to-face exchange.

202 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

203 (a) a mail-order, telephone, or Internet sale made in compliance with Section  
204 [59-14-509](#); or

205 (b) a sale from a vending machine or self-service display that is located in an area of a  
206 retailer's facility:

207 (i) that is distinct and separate from the rest of the facility; and

208 (ii) where the retailer only allows an individual who complies with Subsection (4) to be  
209 present~~[-; or]~~.

210 ~~[(c) a sale at a retail tobacco specialty business.]~~

211 (4) An individual who is under 21 years old may not enter or be present at a retail

212 tobacco specialty business unless the individual is:

213 (a) accompanied by a parent or legal guardian; or

214 (b) (i) present at the retail tobacco specialty business solely for the purpose of  
215 providing a service to the retail tobacco specialty business, including making a delivery;

216 (ii) monitored by the proprietor of the retail tobacco specialty business or an employee  
217 of the retail tobacco specialty business; and

218 (iii) not permitted to make any purchase or conduct any commercial transaction other  
219 than the service described in Subsection (4)(b)(i).

220 (5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual  
221 into an area described in Subsection (3)(b) or into a retail tobacco specialty business may not  
222 allow the individual to purchase a tobacco product, an electronic cigarette product, or a  
223 nicotine product.

224 (6) A violation of Subsection (2) or (4) is a:

225 (a) class C misdemeanor on the first offense;

226 (b) class B misdemeanor on the second offense; and

227 (c) class A misdemeanor on any subsequent offenses.

228 (7) An individual who violates Subsection (5) is guilty of an offense under Section  
229 [76-10-104](#).

230 Section 6. **Effective date.**

231 This bill takes effect on May 1, 2024.