

Matt MacPherson proposes the following substitute bill:

Tobacco and Electronic Cigarette Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor:

LONG TITLE

General Description:

This bill amends provisions related to tobacco and electronic cigarette products.

Highlighted Provisions:

This bill:

- repeals the ban on flavored electronic cigarette products;
- repeals the nicotine content limit for electronic cigarette products;
- amends provisions related to electronic cigarette product enforcement;
- repeals the requirement that electronic cigarette products obtain premarket authorization from the federal Food and Drug Administration;
- requires tracking of electronic cigarette products;
- creates penalties for general retail tobacco businesses that sell flavored electronic cigarette products;
- for retail tobacco specialty businesses:
 - raises licensing fees;
 - creates identification scanning requirements; and
 - creates surveillance footage requirements;
- creates a tobacco handling permit for retail tobacco specialty business employees and operators;
- creates a tax on flavored electronic cigarette products; and
- amends criminal penalties regarding the illegal sale of tobacco and electronic cigarette products.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

29 **Utah Code Sections Affected:**30 **AMENDS:**

31 **10-8-41.6 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
32 Chapter 470

33 **17-50-333 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
34 Chapter 470

35 **26B-7-501 (Effective upon governor's approval)**, as renumbered and amended by Laws
36 of Utah 2023, Chapter 308

37 **26B-7-505 (Effective 07/01/24)**, as last amended by Laws of Utah 2024, Chapter 470

38 **26B-7-509 (Effective upon governor's approval)**, as renumbered and amended by Laws
39 of Utah 2023, Chapter 308

40 **26B-7-511 (Effective upon governor's approval)**, as renumbered and amended by Laws
41 of Utah 2023, Chapter 308

42 **26B-7-518 (Effective upon governor's approval)**, as renumbered and amended by Laws
43 of Utah 2023, Chapter 308

44 **26B-7-521 (Effective upon governor's approval)**, as renumbered and amended by Laws
45 of Utah 2023, Chapter 308

46 **59-14-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2022,
47 Chapter 199

48 **59-14-807 [(Effective 07/01/24)] (Effective upon governor's approval)**, as last amended by
49 Laws of Utah 2024, Chapter 470

50 **76-10-101 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
51 Chapter 470

52 **76-10-104 (Effective upon governor's approval)**, as last amended by Laws of Utah 2020,
53 Chapters 302, 347

54 **76-10-104.1 (Effective upon governor's approval)**, as last amended by Laws of Utah
55 2020, Chapters 302, 347

56 **76-10-105.1 (Effective upon governor's approval)**, as last amended by Laws of Utah
57 2021, Chapter 348

58 **76-10-111 (Effective upon governor's approval)**, as last amended by Laws of Utah 2020,
59 Chapters 302, 347

60 **76-10-112 (Effective upon governor's approval)**, as last amended by Laws of Utah 2020,
61 Chapter 302

62 **76-10-113 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,

63 Chapter 470
 64 **76-10-114 (Effective upon governor's approval)**, as last amended by Laws of Utah 2021,
 65 First Special Session, Chapter 12

66 ENACTS:

67 **26B-7-523 (Effective upon governor's approval)**, Utah Code Annotated 1953
 68 **59-14-901 (Effective 07/01/25)**, Utah Code Annotated 1953
 69 **59-14-902 (Effective 07/01/25)**, Utah Code Annotated 1953
 70 **59-14-903 (Effective 07/01/25)**, Utah Code Annotated 1953
 71 **59-14-904 (Effective 07/01/25)**, Utah Code Annotated 1953
 72 **59-14-905 (Effective 07/01/25)**, Utah Code Annotated 1953
 73 **59-14-906 (Effective 07/01/25)**, Utah Code Annotated 1953
 74 **59-14-907 (Effective 07/01/25)**, Utah Code Annotated 1953

75 REPEALS:

76 **26A-1-131** [~~Effective 07/01/24~~] (**Effective upon governor's approval**), as enacted by
 77 Laws of Utah 2024, Chapter 470
 78 **59-14-810** [~~Effective 07/01/24~~] (**Effective upon governor's approval**), as enacted by Laws
 79 of Utah 2024, Chapter 470

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

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

83 **10-8-41.6 (Effective upon governor's approval). Regulation of retail tobacco**
 84 **specialty business.**

85 (1) As used in this section:

86 (a) "Community location" means:

- 87 (i) a public or private kindergarten, elementary, middle, junior high, or high school;
- 88 (ii) a licensed child-care facility or preschool;
- 89 (iii) a trade or technical school;
- 90 (iv) a church;
- 91 (v) a public library;
- 92 (vi) a public playground;
- 93 (vii) a public park;
- 94 (viii) a youth center or other space used primarily for youth oriented activities;
- 95 (ix) a public recreational facility;
- 96 (x) a public arcade; or

- 97 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 98 (b) "Department" means the Department of Health and Human Services created in
99 Section 26B-1-201.
- 100 (c) "Electronic cigarette product" means the same as that term is defined in Section
101 76-10-101.
- 102 (d) "Flavored electronic cigarette product" means the same as that term is defined in
103 Section 76-10-101.
- 104 [~~(d)~~] (e) "Licensee" means a person licensed under this section to conduct business as a
105 retail tobacco specialty business.
- 106 [~~(e)~~] (f) "Local health department" means the same as that term is defined in Section
107 26A-1-102.
- 108 [~~(f)~~] (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 109 [~~(g)~~] (h) "Retail tobacco specialty business" means a commercial establishment in which:
110 (i) sales of tobacco products, electronic cigarette products, and nicotine products
111 account for more than 35% of the total quarterly gross receipts for the
112 establishment;
113 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
114 storage of tobacco products, electronic cigarette products, or nicotine products;
115 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage
116 of tobacco products, electronic cigarette products, or nicotine products;
117 (iv) the commercial establishment:
118 (A) holds itself out as a retail tobacco specialty business; and
119 (B) causes a reasonable person to believe the commercial establishment is a retail
120 tobacco specialty business;[~~or~~]
- 121 (v) the retail space features a self-service display for tobacco products, electronic
122 cigarette products, or nicotine products[~~;~~] ;or
- 123 (vi) any flavored electronic cigarette product is sold.
- 124 [~~(h)~~] (i) "Self-service display" means the same as that term is defined in Section
125 76-10-105.1.
- 126 [~~(i)~~] (j) "Tobacco product" means:
127 (i) a tobacco product as defined in Section 76-10-101; or
128 (ii) tobacco paraphernalia as defined in Section 76-10-101.
- 129 (2) The regulation of a retail tobacco specialty business is an exercise of the police powers
130 of the state by the state or by delegation of the state's police powers to other

131 governmental entities.

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

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

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

140 (i) 1,000 feet of a community location;

141 (ii) 600 feet of another retail tobacco specialty business; or

142 (iii) 600 feet from property used or zoned for:

143 (A) agriculture use; or

144 (B) residential use.

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

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

152 (a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter
153 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the
154 local health department having jurisdiction over the area in which the retail tobacco
155 specialty business is located; and

156 (b)(i) for a retailer that sells a tobacco product, a valid license issued by the State Tax
157 Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco
158 product; and

159 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
160 license issued by the State Tax Commission in accordance with Section 59-14-803
161 to sell an electronic cigarette product or a nicotine product.

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

163 (i) requires a municipality to issue a retail tobacco specialty business license; or

164 (ii) prohibits a municipality from adopting more restrictive requirements on a person

- 165 seeking a license or renewal of a license to conduct business as a retail tobacco
166 specialty business.
- 167 (b) A municipality may suspend or revoke a retail tobacco specialty business license
168 issued under this section:
- 169 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,
170 Part 16, Pattern of Unlawful Activity Act;
- 171 (ii) if a licensee violates federal law or federal regulations restricting the sale and
172 distribution of tobacco products or electronic cigarette products to protect children
173 and adolescents;
- 174 (iii) upon the recommendation of the department or a local health department under
175 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
176 Nicotine Products; or
- 177 (iv) under any other provision of state law or local ordinance.
- 178 (7)(a) A retail tobacco specialty business is exempt from Subsection (4) if:
- 179 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
180 license to conduct business as a retail tobacco specialty business;
- 181 (ii) the retail tobacco specialty business is operating in a municipality in accordance
182 with all applicable laws except for the requirement in Subsection (4); and
- 183 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
184 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
185 high school.
- 186 (b) A retail tobacco specialty business may maintain an exemption under Subsection
187 (7)(a) if:
- 188 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
189 or permanent revocation;
- 190 (ii) the retail tobacco specialty business does not close for business or otherwise
191 suspend the sale of tobacco products, electronic cigarette products, or nicotine
192 products for more than 60 consecutive days;
- 193 (iii) the retail tobacco specialty business does not substantially change the business
194 premises or business operation; and
- 195 (iv) the retail tobacco specialty business maintains the right to operate under the
196 terms of other applicable laws, including:
- 197 (A) Section 26B-7-503;
- 198 (B) zoning ordinances;

- 199 (C) building codes; and
- 200 (D) the requirements of the license described in Subsection (7)(a)(i).
- 201 (c) A retail tobacco specialty business that does not qualify for an exemption under
- 202 Subsection (7)(a) is exempt from Subsection (4) if:
- 203 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
- 204 general tobacco retailer permit or a retail tobacco specialty business permit under
- 205 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
- 206 Nicotine Products, by the local health department having jurisdiction over the area
- 207 in which the retail tobacco specialty business is located;
- 208 (ii) the retail tobacco specialty business is operating in the municipality in accordance
- 209 with all applicable laws except for the requirement in Subsection (4); and
- 210 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
- 211 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
- 212 high school.
- 213 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may
- 214 maintain an exemption under Subsection (7)(c) if:
- 215 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
- 216 retail tobacco specialty business permit from the local health department having
- 217 jurisdiction over the area in which the retail tobacco specialty business is located;
- 218 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without
- 219 lapse or permanent revocation;
- 220 (iii) the retail tobacco specialty business does not close for business or otherwise
- 221 suspend the sale of tobacco products, electronic cigarette products, or nicotine
- 222 products for more than 60 consecutive days;
- 223 (iv) the retail tobacco specialty business does not substantially change the business
- 224 premises or business operation as the business existed when the retail tobacco
- 225 specialty business received a permit under Subsection (7)(d)(i); and
- 226 (v) the retail tobacco specialty business maintains the right to operate under the terms
- 227 of other applicable laws, including:
- 228 (A) Section 26B-7-503;
- 229 (B) zoning ordinances;
- 230 (C) building codes; and
- 231 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- 232 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is

233 located within 1,000 feet of a public or private kindergarten, elementary, middle,
 234 junior high, or high school before July 1, 2022, is exempt from Subsection
 235 (4)(a)(iii)(B) if the retail tobacco specialty business:
 236 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial
 237 use and located within a group of architecturally unified commercial
 238 establishments built on a site that is planned, developed, owned, and managed as
 239 an operating unit; and
 240 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
 241 directly related to the relocation described in this Subsection (7)(e).

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

243 **17-50-333 (Effective upon governor's approval). Regulation of retail tobacco**
 244 **specialty business.**

245 (1) As used in this section:

246 (a) "Community location" means:

- 247 (i) a public or private kindergarten, elementary, middle, junior high, or high school;
- 248 (ii) a licensed child-care facility or preschool;
- 249 (iii) a trade or technical school;
- 250 (iv) a church;
- 251 (v) a public library;
- 252 (vi) a public playground;
- 253 (vii) a public park;
- 254 (viii) a youth center or other space used primarily for youth oriented activities;
- 255 (ix) a public recreational facility;
- 256 (x) a public arcade; or
- 257 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

258 (b) "Department" means the Department of Health and Human Services created in
 259 Section 26B-1-201.

260 (c) "Electronic cigarette product" means the same as that term is defined in Section
 261 76-10-101.

262 (d) "Flavored electronic cigarette product" means the same as that term is defined in
 263 Section 76-10-101.

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

266 [~~(e)~~] (f) "Local health department" means the same as that term is defined in Section

- 267 26A-1-102.
- 268 [(f)] (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 269 [(g)] (h) "Retail tobacco specialty business" means a commercial establishment in which:
- 270 (i) sales of tobacco products, electronic cigarette products, and nicotine products
- 271 account for more than 35% of the total quarterly gross receipts for the
- 272 establishment;
- 273 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 274 storage of tobacco products, electronic cigarette products, or nicotine products;
- 275 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage
- 276 of tobacco products, electronic cigarette products, or nicotine products;
- 277 (iv) the commercial establishment:
- 278 (A) holds itself out as a retail tobacco specialty business; and
- 279 (B) causes a reasonable person to believe the commercial establishment is a retail
- 280 tobacco specialty business;[~~or~~]
- 281 (v) the retail space features a self-service display for tobacco products, electronic
- 282 cigarette products, or nicotine products[~~;~~] ; or
- 283 (vi) any flavored electronic cigarette product is sold.
- 284 [(h)] (i) "Self-service display" means the same as that term is defined in Section
- 285 76-10-105.1.
- 286 [(i)] (j) "Tobacco product" means:
- 287 (i) the same as that term is defined in Section 76-10-101; or
- 288 (ii) tobacco paraphernalia as defined in Section 76-10-101.
- 289 (2) The regulation of a retail tobacco specialty business is an exercise of the police powers
- 290 of the state by the state or by the delegation of the state's police power to other
- 291 governmental entities.
- 292 (3)(a) A person may not operate a retail tobacco specialty business in a county unless the
- 293 person obtains a license from the county in which the retail tobacco specialty
- 294 business is located.
- 295 (b) A county may only issue a retail tobacco specialty business license to a person if the
- 296 person complies with the provisions of Subsections (4) and (5).
- 297 (4)(a) Except as provided in Subsection (7), a county may not issue a license for a
- 298 person to conduct business as a retail tobacco specialty business if the retail tobacco
- 299 specialty business is located within:
- 300 (i) 1,000 feet of a community location;

- 301 (ii) 600 feet of another retail tobacco specialty business; or
302 (iii) 600 feet from property used or zoned for:
303 (A) agriculture use; or
304 (B) residential use.
- 305 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a
306 straight line from the nearest entrance of the retail tobacco specialty business to the
307 nearest property boundary of a location described in Subsections (4)(a)(i) through
308 (iii), without regard to intervening structures or zoning districts.
- 309 (5) A county may not issue or renew a license for a person to conduct business as a retail
310 tobacco specialty business until the person provides the county with proof that the retail
311 tobacco specialty business has:
- 312 (a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter
313 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the
314 local health department having jurisdiction over the area in which the retail tobacco
315 specialty business is located; and
- 316 (b)(i) for a retailer that sells a tobacco product, a valid license issued by the State Tax
317 Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco
318 product; or
- 319 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
320 license issued by the State Tax Commission in accordance with Section 59-14-803
321 to sell an electronic cigarette product or a nicotine product.
- 322 (6)(a) Nothing in this section:
- 323 (i) requires a county to issue a retail tobacco specialty business license; or
324 (ii) prohibits a county from adopting more restrictive requirements on a person
325 seeking a license or renewal of a license to conduct business as a retail tobacco
326 specialty business.
- 327 (b) A county may suspend or revoke a retail tobacco specialty business license issued
328 under this section:
- 329 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,
330 Part 16, Pattern of Unlawful Activity Act;
331 (ii) if a licensee violates federal law or federal regulations restricting the sale and
332 distribution of tobacco products or electronic cigarette products to protect children
333 and adolescents;
334 (iii) upon the recommendation of the department or a local health department under

- 335 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
336 Nicotine Products; or
- 337 (iv) under any other provision of state law or local ordinance.
- 338 (7)(a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is
339 exempt from Subsection (4) if:
- 340 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
341 license to conduct business as a retail tobacco specialty business;
- 342 (ii) the retail tobacco specialty business is operating in a county in accordance with
343 all applicable laws except for the requirement in Subsection (4); and
- 344 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
345 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
346 high school.
- 347 (b) A retail tobacco specialty business may maintain an exemption under Subsection
348 (7)(a) if:
- 349 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
350 or permanent revocation;
- 351 (ii) the retail tobacco specialty business does not close for business or otherwise
352 suspend the sale of tobacco products, electronic cigarette products, or nicotine
353 products for more than 60 consecutive days;
- 354 (iii) the retail tobacco specialty business does not substantially change the business
355 premises or business operation; and
- 356 (iv) the retail tobacco specialty business maintains the right to operate under the
357 terms of other applicable laws, including:
- 358 (A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;
- 359 (B) zoning ordinances;
- 360 (C) building codes; and
- 361 (D) the requirements of the license described in Subsection (7)(a)(i).
- 362 (c) A retail tobacco specialty business that does not qualify for an exemption under
363 Subsection (7)(a) is exempt from Subsection (4) if:
- 364 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
365 general tobacco retailer permit or a retail tobacco specialty business permit under [
366 ~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail~~
367 ~~Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products,
368 and Nicotine Products, by the local health department having jurisdiction over the

- 369 area in which the retail tobacco specialty business is located;
- 370 (ii) the retail tobacco specialty business is operating in the county in accordance with
- 371 all applicable laws except for the requirement in Subsection (4); and
- 372 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
- 373 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
- 374 high school.
- 375 (d) A retail tobacco specialty business may maintain an exemption under Subsection
- 376 (7)(c) if:
- 377 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
- 378 retail tobacco specialty business permit from the local health department having
- 379 jurisdiction over the area in which the retail tobacco specialty business is located;
- 380 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without
- 381 lapse or permanent revocation;
- 382 (iii) the retail tobacco specialty business does not close for business or otherwise
- 383 suspend the sale of tobacco products, electronic cigarette products, or nicotine
- 384 products for more than 60 consecutive days;
- 385 (iv) the retail tobacco specialty business does not substantially change the business
- 386 premises or business operation as the business existed when the retail tobacco
- 387 specialty business received a permit under Subsection (7)(d)(i); and
- 388 (v) the retail tobacco specialty business maintains the right to operate under the terms
- 389 of other applicable laws, including:
- 390 (A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;
- 391 (B) zoning ordinances;
- 392 (C) building codes; and
- 393 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- 394 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
- 395 located within 1,000 feet of a public or private kindergarten, elementary, middle,
- 396 junior high, or high school before July 1, 2022, is exempt from Subsection
- 397 (4)(a)(iii)(B) if the retail tobacco specialty business:
- 398 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial
- 399 use and located within a group of architecturally unified commercial
- 400 establishments built on a site that is planned, developed, owned, and managed as
- 401 an operating unit; and
- 402 (ii) continues to meet the requirements described in Subsection (7)(b) that are not

403 directly related to the relocation described in this Subsection (7)(e).

404 Section 3. Section **26B-7-501** is amended to read:

405 **26B-7-501 (Effective upon governor's approval). Definitions.**

406 As used in this part:

407 (1) "Community location" means the same as that term is defined:

408 (a) as it relates to a municipality, in Section 10-8-41.6; and

409 (b) as it relates to a county, in Section 17-50-333.

410 (2) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

411 (3) "Electronic cigarette product" means the same as that term is defined in Section
412 76-10-101.

413 (4) "Electronic cigarette substance" means the same as that term is defined in Section
414 76-10-101.

415 (5) "Employee" means an employee of a tobacco retailer.

416 (6) "Enforcing agency" means the department, or any local health department enforcing the
417 provisions of this part.

418 (7) "Flavored electronic cigarette product" means the same as that term is defined in
419 Section 76-10-101.

420 [~~(7)~~] (8) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco
421 specialty business.

422 [~~(8)~~] (9) "Local health department" means the same as that term is defined in Section
423 26A-1-102.

424 [~~(9)~~] (10) "Manufacture" includes:

425 (a) to cast, construct, or make electronic cigarettes; or

426 (b) to blend, make, process, or prepare an electronic cigarette substance.

427 [~~(10)~~] (11) "Manufacturer sealed electronic cigarette substance" means an electronic
428 cigarette substance that is sold in a container that:

429 (a) is prefilled by the electronic cigarette substance manufacturer; and

430 (b) the electronic cigarette manufacturer does not intend for a consumer to open.

431 [~~(11)~~] (12) "Manufacturer sealed electronic cigarette product" means:

432 (a) an electronic cigarette substance or container that the electronic cigarette
433 manufacturer does not intend for a consumer to open or refill; or

434 (b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.

435 [~~(12)~~] (13) "Nicotine" means the same as that term is defined in Section 76-10-101.

436 [~~(13)~~] (14) "Nicotine product" means the same as that term is defined in Section 76-10-101.

- 437 ~~[(14)]~~ (15) "Non-tobacco shisha" means any product that:
- 438 (a) does not contain tobacco or nicotine; and
- 439 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 440 ~~[(15)]~~ (16) "Owner" means a person holding a 20% ownership interest in the business that is
- 441 required to obtain a permit under this part.
- 442 ~~[(16)]~~ (17) "Permit" means a tobacco retail permit issued under Section 26B-7-507.
- 443 ~~[(17)]~~ (18) "Place of public access" means any enclosed indoor place of business,
- 444 commerce, banking, financial service, or other service-related activity, whether publicly
- 445 or privately owned and whether operated for profit or not, to which persons not
- 446 employed at the place of public access have general and regular access or which the
- 447 public uses, including:
- 448 (a) buildings, offices, shops, elevators, or restrooms;
- 449 (b) means of transportation or common carrier waiting rooms;
- 450 (c) restaurants, cafes, or cafeterias;
- 451 (d) taverns as defined in Section 32B-1-102, or cabarets;
- 452 (e) shopping malls, retail stores, grocery stores, or arcades;
- 453 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites,
- 454 auditoriums, or arenas;
- 455 (g) barber shops, hair salons, or laundromats;
- 456 (h) sports or fitness facilities;
- 457 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
- 458 breakfast" lodging facilities, and other similar lodging facilities, including the
- 459 lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and
- 460 restrooms of any of these;
- 461 (j)(i) any child care facility or program subject to licensure or certification under this
- 462 title, including those operated in private homes, when any child cared for under
- 463 that license is present; and
- 464 (ii) any child care, other than child care as defined in Section 26B-2-401, that is not
- 465 subject to licensure or certification under this title, when any child cared for by the
- 466 provider, other than the child of the provider, is present;
- 467 (k) public or private elementary or secondary school buildings and educational facilities
- 468 or the property on which those facilities are located;
- 469 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
- 470 religious organization when used solely by the organization members or the

- 471 members' guests or families;
- 472 (m) any facility rented or leased for private functions from which the general public is
473 excluded and arrangements for the function are under the control of the function
474 sponsor;
- 475 (n) any workplace that is not a place of public access or a publicly owned building or
476 office but has one or more employees who are not owner-operators of the business;
- 477 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
478 stating "no smoking", "thank you for not smoking", or similar statement; and
- 479 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.
- 480 ~~[(18)]~~ (19)(a) "Proof of age" means:
- 481 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification
482 Card Act;
- 483 (ii) a valid identification that:
- 484 (A) is substantially similar to an identification card issued under Title 53, Chapter
485 3, Part 8, Identification Card Act;
- 486 (B) is issued in accordance with the laws of a state other than Utah in which the
487 identification is issued;
- 488 (C) includes date of birth; and
- 489 (D) has a picture affixed;
- 490 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform
491 Driver License Act, or in accordance with the laws of the state in which the valid
492 driver license is issued;
- 493 (iv) a valid United States military identification card that:
- 494 (A) includes date of birth; and
- 495 (B) has a picture affixed; or
- 496 (v) a valid passport.
- 497 (b) "Proof of age" does not include a valid driving privilege card issued in accordance
498 with Section 53-3-207.
- 499 ~~[(19)]~~ (20) "Publicly owned building or office" means any enclosed indoor place or portion
500 of a place owned, leased, or rented by any state, county, or municipal government, or by
501 any agency supported by appropriation of, or by contracts or grants from, funds derived
502 from the collection of federal, state, county, or municipal taxes.
- 503 ~~[(20)]~~ (21) "Retail tobacco specialty business" means the same as that term is defined:
- 504 (a) as it relates to a municipality, in Section 10-8-41.6; and

505 (b) as it relates to a county, in Section 17-50-333.

506 [~~(21)~~] (22) "Shisha" means any product that:

507 (a) contains tobacco or nicotine; and

508 (b) is smoked or intended to be smoked in a hookah or water pipe.

509 [~~(22)~~] (23) "Smoking" means:

510 (a) the possession of any lighted or heated tobacco product in any form;

511 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or
512 hookah that contains:

513 (i) tobacco or any plant product intended for inhalation;

514 (ii) shisha or non-tobacco shisha;

515 (iii) nicotine;

516 (iv) a natural or synthetic tobacco substitute; or

517 (v) a natural or synthetic flavored tobacco product;

518 (c) using an electronic cigarette; or

519 (d) using an oral smoking device intended to circumvent the prohibition of smoking in
520 this part.

521 [~~(23)~~] (24) "Tax commission license" means a license issued by the State Tax Commission
522 under:

523 (a) Section 59-14-201 to sell a cigarette at retail;

524 (b) Section 59-14-301 to sell a tobacco product at retail; or

525 (c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

526 [~~(24)~~] (25) "Tobacco product" means:

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

528 (b) tobacco paraphernalia as defined in Section 76-10-101.

529 [~~(25)~~] (26) "Tobacco retailer" means a person that is required to obtain a tax commission
530 license.

531 Section 4. Section **26B-7-505** is amended to read:

532 **26B-7-505 (Effective 07/01/24). Electronic cigarette products -- Labeling --**

533 **Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.**

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

538 (a) labeling;

- 539 (b) nicotine content;
- 540 (c) packaging; and
- 541 (d) product quality.
- 542 (2) On or before January 1, 2021, the department shall, in consultation with a local health
- 543 department and with input from members of the public, establish by rule made in
- 544 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 545 requirements to sell a manufacturer sealed electronic cigarette product regarding:
- 546 (a) labeling;
- 547 (b) nicotine content;
- 548 (c) packaging; and
- 549 (d) product quality.
- 550 (3)(a) A person may not sell an electronic cigarette substance unless the electronic
- 551 cigarette substance complies with the requirements established by the department
- 552 under Subsection (1).
- 553 (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic
- 554 cigarette product unless the manufacturer sealed electronic cigarette product complies
- 555 with the requirements established by the department under Subsection (2).
- 556 ~~[(e) Notwithstanding Subsections (3)(a) and (3)(b), beginning on January 1, 2025, a~~
- 557 ~~person may not sell an electronic cigarette product that is not a premarket authorized~~
- 558 ~~or pending electronic cigarette product as that term is defined in Section 76-10-101.]~~
- 559 (4)(a) A local health department may not enact a rule or regulation regarding electronic
- 560 cigarette substance labeling, nicotine content, packaging, or product quality that is
- 561 not identical to the requirements established by the department under Subsections (1)
- 562 and (2).
- 563 (b) Except as provided in Subsection (4)(c), a local health department may enact a rule
- 564 or regulation regarding electronic cigarette substance manufacturing.
- 565 (c) A local health department may not enact a rule or regulation regarding a
- 566 manufacturer sealed electronic cigarette product.
- 567 (5) A person may not advertise an electronic cigarette product as a tobacco cessation device.
- 568 (6)(a) Any nicotine product shall contain the statement described in Subsection (6)(b) if
- 569 the nicotine product:
- 570 (i)(A) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal
- 571 regulations; or
- 572 (B) is not otherwise required under federal or state law to contain a nicotine

573 warning; and

574 (ii) contains nicotine.

575 (b) A statement shall appear on the exterior packaging of a nicotine product described in
576 Subsection (6)(a) as follows:

577 "This product contains nicotine."

578 Section 5. Section **26B-7-509** is amended to read:

579 **26B-7-509 (Effective upon governor's approval). Permit term and fees.**

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

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

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

584 (i) for a general tobacco retailer:

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

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

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

589 (ii) for a retail tobacco specialty business, \$3,000.

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

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

596 (d) Payment of the fee described in Subsection (2)(a)(ii) is due after an initial application
597 is approved and when a renewal application is approved.

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

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

602 (a) the information required in Subsection 26B-7-508(3) and, if applicable, Subsection
603 26B-7-508(4);

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

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

607 Section 6. Section **26B-7-511** is amended to read:

608 **26B-7-511 (Effective upon governor's approval). Permit requirements for a**
609 **retail tobacco specialty business -- Tobacco handling permit.**

610 (1) A retail tobacco specialty business shall:

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

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

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

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

619 (ii) the prohibition on the sale of tobacco products and electronic cigarette products to
620 an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1,
621 76-10-105.1, and 76-10-114[~~]~~ ; and

622 (d) implement security standards that include an electronic video monitoring system
623 with:

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

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

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

630 (A) all points of entry; and

631 (B) each point-of-sale;

632 (iv) a method for storing each video recording from the video camera for at least 45
633 days after the day on which the recording was taken;

634 (v) a surveillance system with:

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

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

640 (vi) a failure notification system that provides an audible or visual notification of an

- 641 error within the electronic monitoring system; and
642 (vii) a date and time stamp embedded on video camera recordings; and
643 (e) place a sign in a publicly viewable area that notifies patrons that the patrons are
644 under surveillance.
- 645 (2) A retail tobacco specialty business may not:
- 646 (a) employ an individual under 21 years old to sell a tobacco product, an electronic
647 cigarette product, or a nicotine product;[-or]
648 (b) permit an employee under 21 years old to sell a tobacco product, an electronic
649 cigarette product, or a nicotine product[-] ; or
650 (c) employ an individual that does not have a tobacco handling permit described in
651 Subsection (3).
- 652 (3)(a) An employee, owner, or operator of a retail tobacco specialty business shall obtain
653 and maintain a tobacco handling permit.
- 654 (b) The department shall:
- 655 (i) develop a course to instruct an individual described in Subsection (3)(a) regarding
656 the laws and regulations that a retail tobacco specialty business must follow;
657 (ii) issue a tobacco handling permit to any individual who completes the training; and
658 (iii) establish a fee in accordance with Section 63J-1-504 to implement this
659 Subsection (3).
- 660 (c) A tobacco handling permit expires one year from the day the tobacco handling
661 permit is issued.
- 662 Section 7. Section **26B-7-518** is amended to read:
- 663 **26B-7-518 (Effective upon governor's approval). Penalties.**
- 664 (1)(a) If an enforcing agency determines that a person has violated the terms of a permit
665 issued under this part, the enforcing agency may impose the penalties described in
666 this section.
- 667 (b) If multiple violations are found in a single inspection by an enforcing agency or a
668 single investigation by a law enforcement agency under Section 77-39-101, the
669 enforcing agency shall treat the multiple violations as one single violation under
670 Subsections (2), (3), and (4).
- 671 (2) Except as provided in Subsections (3) and (4), if a violation is found in an investigation
672 by a law enforcement agency under Section 77-39-101 or an inspection by an enforcing
673 agency, the enforcing agency shall:
- 674 (a) on a first violation at a retail location, impose a penalty of \$1,000;

- 675 (b) on a second violation at the same retail location that occurs within one year of a
 676 previous violation, impose a penalty of \$1,500;
- 677 (c) on a third violation at the same retail location that occurs within two years after two
 678 previous violations, impose:
- 679 (i) a suspension of the permit for 30 consecutive business days within 60 days after
 680 the day on which the third violation occurs; or
- 681 (ii) a penalty of \$2,000; and
- 682 (d) on a fourth or subsequent violation within two years of three previous violations:
- 683 (i) impose a penalty of \$2,000;
- 684 (ii) revoke a permit of the retailer; and
- 685 (iii) if applicable, recommend to a municipality or county that a retail tobacco
 686 specialty business license issued under Section 10-8-41.6 or 17-50-333 be
 687 suspended or revoked.
- 688 (3) ~~[If a violation is found in an investigation of]~~ Except as provided in Subsection (7), if a
 689 general tobacco retailer [by a law enforcement agency under Section 77-39-101 for the
 690 sale of a tobacco product, an electronic cigarette product, or a nicotine product to an
 691 individual under 21 years old and the violation is committed by the owner of the general
 692 tobacco retailer] sells a tobacco product to an individual under 21 years old, the
 693 enforcing agency shall:
- 694 (a) on a first violation, impose a fine of \$2,000 on the general tobacco retailer; and
- 695 (b) on the second violation for the same general tobacco retailer within one year of the
 696 first violation:
- 697 (i) impose a fine of \$5,000; and
- 698 (ii) revoke the permit for the general tobacco retailer.
- 699 (4) ~~If [a violation is found in an investigation of]~~ a retail tobacco specialty business [by a
 700 law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an
 701 electronic cigarette product, or a nicotine product to an individual under 21 years old]
 702 sells a tobacco product to an individual under 21 years old, the enforcing agency shall:
- 703 (a) on the first violation:
- 704 (i) impose a fine of ~~[\$5,000]~~ \$10,000; ~~and]~~
- 705 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and
 706 ~~[(ii)]~~ (iii) immediately suspend the permit for 30 consecutive days; and
- 707 (b) on the second violation at the same retail location within two years of the first
 708 violation:

- 709 (i) impose a fine of [~~\$10,000~~] \$20,000; [~~and~~]
710 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and
711 [~~(ii)~~] (iii) revoke the permit for the retail tobacco specialty business.
- 712 (5)(a) Except when a transfer described in Subsection (6) occurs, a local health
713 department may not issue a permit to:
- 714 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2)
715 or (3); or
716 (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner,
717 or other holder of significant interest as another tobacco retailer for whom a
718 permit is suspended or revoked under Subsection (2), (3), or (4).
- 719 (b) A person whose permit:
- 720 (i) is suspended under this section may not apply for a new permit for any other
721 tobacco retailer for a period of 12 months after the day on which an enforcing
722 agency suspends the permit; and
723 (ii) is revoked under this section may not apply for a new permit for any tobacco
724 retailer for a period of 24 months after the day on which an enforcing agency
725 revokes the permit.
- 726 (6) Violations of this part, Section 10-8-41.6, or Section 17-50-333 that occur at a tobacco
727 retailer location shall stay on the record for that tobacco retailer location unless:
- 728 (a) the tobacco retailer is transferred to a new proprietor; and
729 (b) the new proprietor provides documentation to the local health department that the
730 new proprietor is acquiring the tobacco retailer in an arm's length transaction from
731 the previous proprietor.
- 732 (7) If a general tobacco retailer is found to be selling a flavored electronic cigarette product
733 to an individual under 21 years old, the enforcing agency shall:
- 734 (a) on the first violation:
- 735 (i) impose a fine of \$10,000;
736 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and
737 (iii) immediately suspend the permit for 30 consecutive days; and
- 738 (b) on the second violation at the same retail location within two years of the first
739 violation:
- 740 (i) impose a fine of \$20,000;
741 (ii) impose an additional fine of \$1,000 for each product sold up to \$100,000; and
742 (iii) revoke the permit for the general tobacco retailer.

743 Section 8. Section **26B-7-521** is amended to read:

744 **26B-7-521 (Effective upon governor's approval). Verification of proof of age --**

745 **Verification of identification.**

746 (1) As used in this section:

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

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

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

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

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

754 (b) verify the validity of the proof of age electronically in accordance with Subsection (4).

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

757 (b) Beginning July 1, 2025, a retail tobacco specialty business shall use an identification
758 verification system.

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

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

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

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

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

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

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

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

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

- 777 (b) Information obtained under this section:
 778 (i) shall be kept for at least 180 days; and
 779 (ii) is subject to inspection upon request by a peace officer or the representative of an
 780 enforcing agency.
- 781 (6)(a) If an employee does not verify proof of age under this section, the employee may
 782 not permit an individual to:
 783 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or
 784 (ii) purchase a tobacco product or an electronic cigarette product.
- 785 (b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years
 786 old may be permitted to enter a retail tobacco specialty business if the individual is:
 787 [~~(i) accompanied by a parent or legal guardian who provides proof of age; or]~~
 788 [~~(ii)(A)] (i) present at the retail tobacco specialty business solely for the purpose of
 789 providing a commercial service to the retail tobacco specialty business, including
 790 making a commercial delivery;
 791 [~~(B)] (ii) monitored by the proprietor of the retail tobacco specialty business or an
 792 employee of the retail tobacco specialty business; and
 793 [~~(C)] (iii) not permitted to make any purchase or conduct any commercial transaction
 794 other than the service described in Subsection (6)(b)(ii)(A).~~~~~~
- 795 (7) To determine whether the individual described in Subsection (2) is 21 years old or
 796 older, the following may request an individual described in Subsection (2) to present
 797 proof of age:
 798 (a) an employee;
 799 (b) a peace officer; or
 800 (c) a representative of an enforcing agency.

801 Section 9. Section **26B-7-523** is enacted to read:

802 **26B-7-523 (Effective upon governor's approval). Tracking -- Pilot program.**

- 803 (1)
 804 As used in this section, "RFID" means radio-frequency identification.
- 805 (2) Beginning May 15, 2026, a retail tobacco specialty business shall have in place an
 806 inventory control system that tracks flavored electronic cigarette products.
- 807 (3) The inventory control system shall have an RFID tag attached to each flavored
 808 electronic cigarette product package label in which:
 809 (a) each flavored electronic cigarette product is issued a unique identification number
 810 via an RFID tag; and

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

813 (i) a unique identification number;

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

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

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

819 (5)(a) The department shall conduct a pilot program regarding the effectiveness of RFID
 820 tag tracking if:

821 (i) at least 20 retail tobacco specialty business licensees elect to participate before
 822 July 1, 2025; and

823 (ii) the retail tobacco specialty business agrees to share data that the department
 824 determines relevant regarding RFID tracking to determine if RFID tracking is
 825 effective in preventing individuals under 21 years old from obtaining a flavored
 826 electronic cigarette product.

827 (b) If the department conducts a pilot program under this section, the department shall
 828 provide a report to the Health and Human Services Interim Committee before
 829 January 1, 2026.

830 (c) The department shall set a fee for participating retail tobacco specialty businesses to
 831 recover the department's costs for conducting the pilot program.

832 Section 10. Section **59-14-102** is amended to read:

833 **59-14-102 (Effective upon governor's approval). Definitions.**

834 As used in this chapter:

835 (1) "Alternative nicotine product" means the same as that term is defined in Section
 836 76-10-101.

837 (2) "Cigarette" means a roll made wholly or in part of tobacco:

838 (a) regardless of:

839 (i) the size of the roll;

840 (ii) the shape of the roll;

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

842 or

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

844 (b) if the roll has a wrapper or cover that is made of paper or any other substance or

- 845 material except tobacco.
- 846 (3) "Cigarette rolling machine" means a device or machine that has the capability to
847 produce at least 150 cigarettes in less than 30 minutes.
- 848 (4) "Cigarette rolling machine operator" means a person who:
- 849 (a)(i) controls, leases, owns, possesses, or otherwise has available for use a cigarette
850 rolling machine; and
- 851 (ii) makes the cigarette rolling machine available for use by another person to
852 produce a cigarette; or
- 853 (b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.
- 854 (5) "Consumer" means a person that is not required:
- 855 (a) under Section 59-14-201 to obtain a license under Section 59-14-202;
- 856 (b) under Section 59-14-301 to obtain a license under Section 59-14-202;~~[-or]~~
- 857 (c) to obtain a license under Section 59-14-803~~[-]~~ ; or
- 858 (d) to obtain a license under Section 59-14-902.
- 859 (6) "Counterfeit cigarette" means:
- 860 (a) a cigarette that has a false manufacturing label; or
- 861 (b) a package of cigarettes bearing a counterfeit tax stamp.
- 862 (7)(a) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.
- 863 (b) "Electronic cigarette" does not include a cigarette or a tobacco product.
- 864 (8) "Electronic cigarette product" means the same as that term is defined in Section
865 76-10-101.
- 866 (9) "Electronic cigarette substance" means the same as that term is defined in Section
867 76-10-101.
- 868 (10) "Importer" means a person that imports into the United States, either directly or
869 indirectly, a finished cigarette for sale or distribution.
- 870 (11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any
871 other person doing business as a distributor or retailer of cigarettes on tribal lands
872 located in the state.
- 873 (12) "Little cigar" means a roll for smoking that:
- 874 (a) is made wholly or in part of tobacco;
- 875 (b) uses an integrated cellulose acetate filter or other similar filter; and
- 876 (c) is wrapped in a substance:
- 877 (i) containing tobacco; and
- 878 (ii) that is not exclusively natural leaf tobacco.

- 879 (13)(a) Except as provided in Subsection (13)(b), "manufacturer" means a person that:
880 (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or
881 (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels,
882 repackages, relabels, or imports an electronic cigarette product or a nicotine
883 product.
- 884 (b) "Manufacturer" does not include a cigarette rolling machine operator.
- 885 (14) "Moist snuff" means tobacco that:
886 (a) is finely cut, ground, or powdered;
887 (b) has at least 45% moisture content, as determined by the commission by rule made in
888 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
889 (c) is not intended to be:
890 (i) smoked; or
891 (ii) placed in the nasal cavity; and
892 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or
893 distributed in single-use units, including:
894 (i) tablets;
895 (ii) lozenges;
896 (iii) strips;
897 (iv) sticks; or
898 (v) packages containing multiple single-use units.
- 899 (15) "Nicotine" means the same as that term is defined in Section 76-10-101.
- 900 (16) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 901 (17) "Nontherapeutic nicotine device" means the same as that term is defined in Section
902 76-10-101.
- 903 (18) "Nontherapeutic nicotine device substance" means the same as that term is defined in
904 Section 76-10-101.
- 905 (19) "Nontherapeutic nicotine product" means the same as that term is defined in Section
906 76-10-101.
- 907 (20) "Prefilled electronic cigarette" means the same as that term is defined in Section
908 76-10-101.
- 909 (21) "Prefilled nontherapeutic nicotine device" means the same as that term is defined in
910 Section 76-10-101.
- 911 (22) "Retailer" means a person that:
912 (a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product to

913 a consumer in the state; or
 914 (b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine
 915 product to a consumer in the state.

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

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

919 (b) "Tobacco product" includes:

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

921 (ii) a little cigar; or

922 (iii) moist snuff.

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

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

926 Section 11. Section **59-14-807** is amended to read:

927 **59-14-807** [~~Effective 07/01/24~~] Effective upon governor's approval. **Electronic**
 928 **Cigarette Substance and Nicotine Product Proceeds Restricted Account.**

929 (1) There is created within the General Fund a restricted account known as the "Electronic
 930 Cigarette Substance and Nicotine Product Proceeds Restricted Account."

931 (2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account
 932 consists of:

933 (a) revenue collected from the tax imposed by Section 59-14-804;

934 [~~(b) fees and penalties collected under Section 59-14-810;~~]

935 [~~(c)~~] (b) all money received by the attorney general or the Department of Commerce as a
 936 result of any judgment, settlement, or compromise of claims pertaining to alleged
 937 violations of law related to the manufacture, marketing, distribution, or sale of
 938 electronic cigarette products, as defined in Section 76-10-101:

939 (i) if the total amount of the judgment, settlement, or compromise received by the
 940 state exceeds \$1,000,000; and

941 (ii) after reimbursement to the attorney general and the Department of Commerce for
 942 expenses related to the matters described in Subsection [~~(2)(e)~~] (2)(b); and

943 [~~(d)~~] (c) amounts appropriated by the Legislature.

944 (3)(a) For each fiscal year and subject to appropriation by the Legislature, the Division
 945 of Finance shall distribute from the Electronic Cigarette Substance and Nicotine
 946 Product Proceeds Restricted Account:

- 947 (i) \$2,000,000, which shall be allocated to the local health departments by the
 948 Department of Health and Human Services using the formula created in
 949 accordance with Section 26A-1-116;
- 950 (ii) \$2,000,000 to the Department of Health and Human Services for statewide
 951 cessation programs and prevention education;
- 952 (iii) \$1,180,000 to the Department of Public Safety for law enforcement officers
 953 aimed at disrupting organizations and networks that provide tobacco products,
 954 electronic cigarette products, nicotine products, and other illegal controlled
 955 substances to minors;
- 956 (iv) \$3,000,000, which shall be allocated to the local health departments by the
 957 Department of Health and Human Services using the formula created in
 958 accordance with Section 26A-1-116;
- 959 (v) \$5,084,200 to the State Board of Education for school-based prevention programs;
 960 and
- 961 (vi) \$2,000,000 to the Department of Health and Human Services for alcohol,
 962 tobacco, and other drug prevention, reduction, cessation, and control programs
 963 that promote unified messages and make use of media outlets, including radio,
 964 newspaper, billboards, and television[; and] .
- 965 [~~(vii) of the money deposited under Section 59-14-810;~~
 966 [~~(A) to the commission, in an amount equal to the amount necessary to create and~~
 967 [~~maintain the registry described in Section 59-14-810;~~
 968 [~~(B) to the Department of Health and Human Services, in an amount necessary for~~
 969 [~~completing duties described in Section 59-14-810; and]~~
 970 [~~(C) to the Department of Health and Human Services, the remainder to be~~
 971 [~~divided among the local health departments for inspection and enforcement~~
 972 [~~described in Sections 26A-1-131 and 59-14-810.]~~
- 973 (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds
 974 Restricted Account is insufficient to cover the distributions described in Subsection
 975 (3)(a), the distribution amounts shall be adjusted proportionately.
- 976 (4)(a) The local health departments shall use the money received in accordance with
 977 Subsection (3)(a) for enforcing:
- 978 (i) the regulation provisions described in Section 26B-7-505;
 979 (ii) the labeling requirement described in Section 26B-7-505; and
 980 (iii) the penalty provisions described in Section 26B-7-518.

- 981 (b) The Department of Health and Human Services shall use the money received in
 982 accordance with Subsection (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana,
 983 and Other Drug Prevention Program created in Section 26B-1-428.
- 984 (c) The local health departments shall use the money received in accordance with
 985 Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and
 986 Other Drug Prevention Grant Program created in Section 26A-1-129.
- 987 (d) The State Board of Education shall use the money received in accordance with
 988 Subsection (3)(a)(v) to distribute to local education agencies to pay for:
- 989 (i)(A) stipends for positive behaviors specialists as described in Subsection
 990 53G-10-407(4)(a)(i);
- 991 (B) the cost of administering the positive behaviors plan as described in
 992 Subsection 53G-10-407(4)(a)(ii); and
- 993 (C) the cost of implementing an Underage Drinking and Substance Abuse
 994 Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406
 995 (3)(b); or
- 996 (ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.
- 997 (5)(a) The fund shall earn interest.
- 998 (b) All interest earned on fund money shall be deposited into the fund.
- 999 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette
 1000 Substance and Nicotine Product Proceeds Restricted Account after the distribution
 1001 described in Subsection (3) may only be used for:
- 1002 (a) funding commission personnel to enforce compliance with the tax collection
 1003 requirements of this part; and
- 1004 (b) programs and activities related to the prevention and cessation of electronic cigarette,
 1005 nicotine products, marijuana, and other drug use.
- 1006 Section 12. Section **59-14-901** is enacted to read:

1007 **Part 9. Flavored Electronic Cigarette Tax**

1008 **59-14-901 (Effective 07/01/25). Definitions.**

1009 As used in this part:

- 1010 (1) "Flavored electronic cigarette product" means the same as that term is defined in
 1011 Section 76-10-101.
- 1012 (2) "Licensee" means a person that holds a license to sell a flavored electronic cigarette
 1013 product under this part.
- 1014 (3)(a) "Retail price" means the amount charged by a retailer for a flavored electronic

1015 cigarette product.

1016 (b) "Retail price" includes any part of the amount charged by a retailer that is paid or
1017 recouped for a tax imposed on a distributor under Section 59-14-804.

1018 Section 13. Section **59-14-902** is enacted to read:

1019 **59-14-902 (Effective 07/01/25). License to sell flavored electronic cigarette**
1020 **product.**

1021 (1) A person may not sell or offer to sell a flavored electronic cigarette product in this state
1022 without first:

1023 (a) obtaining a license from the commission under this section to sell a flavored
1024 electronic cigarette product; and

1025 (b) complying with any bonding requirement described in Subsection (5).

1026 (2) A license described in this section is required in addition to any other license required
1027 by law.

1028 (3) The commission shall issue a license to sell a flavored electronic cigarette product to a
1029 person that submits an application, on a form created by the commission, that includes:

1030 (a) the person's name;

1031 (b) the address of the facility where the person will sell a flavored cigarette product; and

1032 (c) any other information the commission requires to implement this part.

1033 (4) A license described in Subsection (3) is:

1034 (a) valid only at one fixed business address;

1035 (b) valid for three years;

1036 (c) valid only for a physical location; and

1037 (d) renewable if a licensee meets the criteria for licensing described in Subsection (3).

1038 (5)(a) The commission shall require a retailer that is responsible under this part for the
1039 collection of tax on a flavored electronic cigarette product to post a bond.

1040 (b) The retailer may post the bond required by Subsection (5)(a) in combination with
1041 any bond required by Section 59-14-201, 59-14-301, or 59-14-803.

1042 (c) Subject to Subsection (5)(d), the commission shall determine the form and amount of
1043 the bond.

1044 (d) The minimum amount of the bond shall be \$500.

1045 (e) If a bond is posted in combination with another bond under (5)(b), the total amount
1046 of the bond shall be equal to the sum total of \$500 plus the amount required by the
1047 other provision of law.

1048 (6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah

1049 Administrative Rulemaking Act, to establish the additional information described in
1050 Subsection (3)(c) that a person shall provide in the application described in Subsection
1051 (3).

1052 (7) It is a class B misdemeanor for a person to violate Subsection (1).

1053 (8) The commission may not charge a fee for a license under this section.

1054 Section 14. Section **59-14-903** is enacted to read:

1055 **59-14-903 (Effective 07/01/25). Publication of licensed distributors -- Retailer**
1056 **transaction only with licensed distributor -- Penalty.**

1057 (1)(a) The commission shall maintain a list that includes the identity of each person
1058 licensed under this part to sell a flavored electronic cigarette product.

1059 (b) The list shall be:

1060 (i) published on the commission website; and

1061 (ii) updated by the commission at least once per quarter.

1062 (2) A distributor may sell a flavored electronic cigarette product only to a licensed retailer
1063 identified on the list described in Subsection (1).

1064 (3)(a) The commission may impose a penalty against a distributor that sells a flavored
1065 electronic cigarette product to a person other than a licensed retailer.

1066 (b) The penalty is \$10,000 for each sale.

1067 Section 15. Section **59-14-904** is enacted to read:

1068 **59-14-904 (Effective 07/01/25). Taxation of flavored electronic cigarette products.**

1069 (1)(a) Beginning on July 1, 2025, a tax is imposed on a flavored electronic cigarette
1070 product.

1071 (b) A tax described in this section is in addition to any other tax required by law on an
1072 electronic cigarette product, including the tax described in Section 59-14-804.

1073 (2) The amount of tax imposed under Subsection (1) is .025 multiplied by the retail price of
1074 each product sold.

1075 (3) If a product is sold in the same package as a product that is taxed under Subsection (1),
1076 the tax described in Subsection (2) shall apply to the retail price of the entire packaged
1077 product.

1078 (4) A retailer, consumer, or user shall pay the tax levied under Subsection (1) at the point of
1079 sale.

1080 (5)(a) The retailer shall remit the taxes collected in accordance with this section to the
1081 commission.

1082 (b) The commission shall deposit revenues generated by the tax imposed by this section

1083 into the Flavored Electronic Cigarette Product Proceeds Restricted Account created
 1084 in Section 59-14-906.

1085 Section 16. Section **59-14-905** is enacted to read:

1086 **59-14-905 (Effective 07/01/25). Remittance of tax -- Returns -- Invoice required**
 1087 **-- Filing requirement-- Exception -- Penalty -- Overpayment.**

1088 (1)(a) The retailer that collects the tax imposed on a flavored electronic cigarette product
 1089 shall remit to the commission, in an electronic format approved by the commission:

1090 (i) the tax collected in the previous calendar quarter; and

1091 (ii) the quarterly tax return.

1092 (b) The tax collected and the return are due on or before the last day of April, July,
 1093 October, and January.

1094 (2)(a) A consumer that purchases an untaxed flavored electronic cigarette product for
 1095 use or other consumption shall:

1096 (i) file with the commission, on forms prescribed by the commission, a statement
 1097 showing the quantity and description of the item subject to tax under this part; and

1098 (ii) pay the tax imposed by this part on that item.

1099 (b) The consumer shall file the statement described in Subsection (2)(a) and pay the tax
 1100 due on or before the last day of the month immediately following the month during
 1101 which the consumer purchased an untaxed flavored electronic cigarette product.

1102 (c) A consumer shall maintain records necessary to determine the amount of tax the
 1103 consumer is liable to pay under this part for a period of three years following the date
 1104 on which the statement required by this section was filed.

1105 (3) A tourist who imports an untaxed flavored electronic cigarette product into the state
 1106 does not need to file the statement described in Subsection (2) or pay the tax if the item
 1107 is for the tourist's own use or consumption while in this state.

1108 (4) In addition to the tax required by this part, a person shall pay a penalty as provided in
 1109 Section 59-1-401, plus interest at the rate and in the manner prescribed in Section
 1110 59-1-402, if a person subject to this section fails to:

1111 (a) pay the tax prescribed by this part;

1112 (b) pay the tax on time; or

1113 (c) file a return required by this part.

1114 (5) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the
 1115 manner prescribed in Section 59-1-402.

1116 Section 17. Section **59-14-906** is enacted to read:

1117 **59-14-906 (Effective 07/01/25). Flavored Electronic Cigarette Product Proceeds**
 1118 **Restricted Account.**

1119 (1) There is created within the General Fund a restricted account known as the "Flavored
 1120 Electronic Cigarette Product Proceeds Restricted Account."

1121 (2) The account consists of revenue collected by the tax imposed in Section 59-14-904.

1122 (3) Subject to Subsection (5), for each fiscal year and subject to appropriation by the
 1123 Legislature, the Division of Finance shall distribute:

1124 (a) 80% of the amount in the account to the Department of Health and Human Services
 1125 to be used as follows:

1126 (i) 50% of the amount transferred to the Department of Health and Human Services,
 1127 for tobacco and nicotine prevention programs and for enforcement of state law
 1128 related to electronic cigarette products by the Department of Health and Human
 1129 Services and each local health department; and

1130 (ii) 50% of the amount transferred to the Department of Health and Human Services,
 1131 for any of the following:

1132 (A) cancer research conducted by one or more cancer research organizations as
 1133 determined by the Department of Health and Human Services; or

1134 (B) research regarding the health risks of electronic cigarette product use
 1135 conducted by one or more research organizations as determined by the
 1136 Department of Health and Human Services; and

1137 (b) 20% of the amount in the account to the State Board of Education to pay for the
 1138 school lunch program described in Section 53E-3-510.

1139 (4)(a) The fund shall earn interest.

1140 (b) Interest earned on fund money shall be deposited into the fund.

1141 (5) Subject to legislative appropriations, before any amount of money is distributed under
 1142 Subsection (3), the Division of Finance shall distribute an amount to the commission to
 1143 enforce compliance with the tax collection requirements of this part.

1144 Section 18. Section **59-14-907** is enacted to read:

1145 **59-14-907 (Effective 07/01/25). Reports of illegal product.**

1146 If the commission suspects that a flavored electronic cigarette product is being sold in
 1147 violation of a law other than a law described in this part, the commission shall report the name
 1148 of the seller, the type of product, and the county where the product was sold:

1149 (1) to the local health department for the county where the sale occurs;

1150 (2) to the Department of Health and Human Services; and

1151 (3) to the Department of Public Safety.

1152 Section 19. Section **76-10-101** is amended to read:

1153 **76-10-101 (Effective upon governor's approval). Definitions.**

1154 As used in this part:

1155 (1)(a) "Alternative nicotine product" means a product, other than a cigarette, a
1156 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine
1157 product, or a tobacco product, that:

1158 (i) contains nicotine;

1159 (ii) is intended for human consumption;

1160 (iii) is not purchased with a prescription from a licensed physician; and

1161 (iv) is not approved by the United States Food and Drug Administration as nicotine
1162 replacement therapy.

1163 (b) "Alternative nicotine product" includes:

1164 (i) pure nicotine;

1165 (ii) snortable nicotine;

1166 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and

1167 (iv) nicotine-laced food and beverage.

1168 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that
1169 contains naturally occurring nicotine.

1170 (2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary
1171 conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any
1172 substance containing tobacco, other than any roll of tobacco that is a cigarette.

1173 (3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned
1174 under ordinary conditions of use, and consists of:

1175 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

1176 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
1177 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is
1178 likely to be offered to, or purchased by, consumers as a cigarette described in
1179 Subsection (3)(a).

1180 (4)(a) "Electronic cigarette" means:

1181 (i) any electronic oral device:

1182 (A) that provides an aerosol or a vapor of nicotine or other substance; and

1183 (B) which simulates smoking through the use or inhalation of the device;

1184 (ii) a component of the device described in Subsection (4)(a)(i); or

- 1185 (iii) an accessory sold in the same package as the device described in Subsection
1186 (4)(a)(i).
- 1187 (b) "Electronic cigarette" includes an oral device that is:
1188 (i) composed of a heating element, battery, or electronic circuit; and
1189 (ii) marketed, manufactured, distributed, or sold as:
1190 (A) an e-cigarette;
1191 (B) an e-cigar;
1192 (C) an e-pipe; or
1193 (D) any other product name or descriptor, if the function of the product meets the
1194 definition of Subsection (4)(a).
- 1195 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is
1196 defined in Section 26B-4-201.
- 1197 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
1198 substance, or a prefilled electronic cigarette.
- 1199 (6) "Electronic cigarette substance" means any substance, including liquid containing
1200 nicotine, used or intended for use in an electronic cigarette.
- 1201 (7)(a) "Flavored electronic cigarette product" means an electronic cigarette product that
1202 has a taste or smell that is distinguishable by an ordinary consumer either before or
1203 during use or consumption of the electronic cigarette product.
- 1204 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that is
1205 labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy,
1206 cocoa, dessert, alcoholic beverage, herb, spice, or mint.
- 1207 (c) "Flavored electronic cigarette product" does not include an electronic cigarette
1208 product that has a taste or smell of only tobacco or menthol.
- 1209 (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically
1210 or derived from tobacco or other plants.
- 1211 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine
1212 product.
- 1213 (10)(a) "Nontherapeutic nicotine device" means a device that:
1214 (i) has a pressurized canister that is used to administer nicotine to the user through
1215 inhalation or intranasally;
1216 (ii) is not purchased with a prescription from a licensed physician; and
1217 (iii) is not approved by the United States Food and Drug Administration as nicotine
1218 replacement therapy.

- 1219 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a
1220 nontherapeutic nicotine nasal spray.
- 1221 (11) "Nontherapeutic nicotine device substance" means a substance that:
- 1222 (a) contains nicotine;
- 1223 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
- 1224 (c) is not purchased with a prescription from a licensed physician; and
- 1225 (d) is not approved by the United States Food and Drug Administration as nicotine
1226 replacement therapy.
- 1227 (12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a
1228 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.
- 1229 (13) "Place of business" includes:
- 1230 (a) a shop;
- 1231 (b) a store;
- 1232 (c) a factory;
- 1233 (d) a public garage;
- 1234 (e) an office;
- 1235 (f) a theater;
- 1236 (g) a recreation hall;
- 1237 (h) a dance hall;
- 1238 (i) a poolroom;
- 1239 (j) a cafe;
- 1240 (k) a cafeteria;
- 1241 (l) a cabaret;
- 1242 (m) a restaurant;
- 1243 (n) a hotel;
- 1244 (o) a lodging house;
- 1245 (p) a streetcar;
- 1246 (q) a bus;
- 1247 (r) an interurban or railway passenger coach;
- 1248 (s) a waiting room; and
- 1249 (t) any other place of business.
- 1250 (14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with
1251 an electronic cigarette substance.
- 1252 (15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that

1253 is sold prefilled with a nontherapeutic nicotine device substance.

1254 ~~[(16) "Premarket authorized or pending electronic cigarette product" means an electronic~~
1255 ~~cigarette product that:]~~

1256 ~~[(a)(i) has been approved by an order granting a premarket tobacco product~~
1257 ~~application of the electronic cigarette product by the United States Food and Drug~~
1258 ~~Administration under 21 U.S.C. Sec. 387j(e)(1)(A)(i); or]~~

1259 ~~[(ii)(A) was marketed in the United States on or before August 8, 2016;]~~

1260 ~~[(B) the manufacturer submitted a premarket tobacco product application for the~~
1261 ~~electronic cigarette product to the United States Food and Drug Administration~~
1262 ~~under 21 U.S.C. Sec. 387j on or before September 9, 2020; and]~~

1263 ~~[(C) has an application described in Subsection (16)(a)(ii) that either remains~~
1264 ~~under review by the United States Food and Drug Administration or a final~~
1265 ~~decision on the application has not taken effect; and]~~

1266 ~~[(b) does not exceed:]~~

1267 ~~[(i) 4.0% nicotine by weight per container; or]~~

1268 ~~[(ii) a nicotine concentration of 40 milligrams per milliliter.]~~

1269 ~~[(17) (16) "Retail tobacco specialty business" means the same as that term is defined in~~
1270 ~~Section 26B-7-501.~~

1271 ~~[(18) (17) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other~~
1272 ~~lighted smoking equipment.~~

1273 ~~[(19) (18)(a) "Tobacco paraphernalia" means equipment, product, or material of any~~
1274 ~~kind that is used, intended for use, or designed for use to package, repackage, store,~~
1275 ~~contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an~~
1276 ~~electronic cigarette substance, or a nontherapeutic nicotine device substance into the~~
1277 ~~human body.~~

1278 (b) "Tobacco paraphernalia" includes:

1279 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
1280 screens, permanent screens, hashish heads, or punctured metal bowls;

1281 (ii) water pipes;

1282 (iii) carburetion tubes and devices;

1283 (iv) smoking and carburetion masks;

1284 (v) roach clips, meaning objects used to hold burning material, such as a cigarette,
1285 that has become too small or too short to be held in the hand;

1286 (vi) chamber pipes;

1287 (vii) carburetor pipes;

1288 (viii) electric pipes;

1289 (ix) air-driven pipes;

1290 (x) chillums;

1291 (xi) bongos; and

1292 (xii) ice pipes or chillers.

1293 (c) "Tobacco paraphernalia" does not include matches or lighters.

1294 [~~(20)~~] (19) "Tobacco product" means:

1295 (a) a cigar;

1296 (b) a cigarette; or

1297 (c) tobacco in any form, including:

1298 (i) chewing tobacco; and

1299 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

1300 [~~(21)~~] (20) "Tobacco retailer" means:

1301 (a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or

1302 (b) a retail tobacco specialty business.

1303 Section 20. Section **76-10-104** is amended to read:

1304 **76-10-104 (Effective upon governor's approval). Providing a cigar, a cigarette,**
 1305 **an electronic cigarette product, a nicotine product, or tobacco to a minor -- Penalties.**

1306 (1) As used in this section "provides":

1307 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1308 (b) does not include the acts of the United States Postal Service or other common carrier

1309 when engaged in the business of transporting and delivering packages for others or

1310 the acts of a person, whether compensated or not, who transports or delivers a

1311 package for another person without any reason to know of the package's content.

1312 (2) An individual who knowingly, intentionally, recklessly, or with criminal negligence

1313 provides a tobacco product, an electronic cigarette product, or a nicotine product to an

1314 individual who is under 21 years old, is guilty of:

1315 (a) a class ~~[C]~~ B misdemeanor on the first offense; and

1316 [~~(b)~~] ~~a class B misdemeanor on the second offense; and]~~

1317 [~~(c)~~] (b) a class A misdemeanor on any subsequent offense.

1318 (3) This section does not apply to conduct of an employee of a tobacco retailer that is a

1319 violation of Section 76-10-114.

1320 Section 21. Section **76-10-104.1** is amended to read:

1321 **76-10-104.1 (Effective upon governor's approval). Providing tobacco**
 1322 **paraphernalia to a minor -- Penalties.**

1323 (1) As used in this section, "provides":

1324 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1325 (b) does not include the acts of the United States Postal Service or other common carrier
 1326 when engaged in the business of transporting and delivering packages for others or
 1327 the acts of a person, whether compensated or not, who transports or delivers a
 1328 package for another person without any reason to know of the package's content.

1329 (2)(a) It is unlawful for an individual to knowingly, intentionally, recklessly, or with
 1330 criminal negligence provide tobacco paraphernalia to an individual under 21 years
 1331 old.

1332 (b) An individual who violates this section is guilty of:

1333 (i) a class [€] B misdemeanor on the first offense; and

1334 (ii) a class [B] A misdemeanor on any subsequent offense.

1335 Section 22. Section **76-10-105.1** is amended to read:

1336 **76-10-105.1 (Effective upon governor's approval). Requirement of direct,**
 1337 **face-to-face sale of a tobacco product, an electronic cigarette product, or a nicotine**
 1338 **product -- Minors not allowed in tobacco specialty shop -- Penalties.**

1339 (1) As used in this section:

1340 (a)(i) "Face-to-face exchange" means a transaction made in person between an
 1341 individual and a retailer or retailer's employee.

1342 (ii) "Face-to-face exchange" does not include a sale through a:

1343 (A) vending machine;~~[-or]~~

1344 (B) self-service display~~[-]~~ ; or

1345 (C) a drive through.

1346 (b) "Retailer" means a person who:

1347 (i) sells a tobacco product, an electronic cigarette product, or a nicotine product to an
 1348 individual for personal consumption; or

1349 (ii) operates a facility with a vending machine that sells a tobacco product, an
 1350 electronic cigarette product, or a nicotine product.

1351 (c) "Self-service display" means a display of a tobacco product, an electronic cigarette
 1352 product, or a nicotine product to which the public has access without the intervention
 1353 of a retailer or retailer's employee.

1354 (2) Except as provided in Subsection (3), a retailer may sell a tobacco product, an electronic

- 1355 cigarette product, or a nicotine product only in a face-to-face exchange.
- 1356 (3) The face-to-face sale requirement in Subsection (2) does not apply to:
- 1357 (a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;
- 1358 or
- 1359 (b) a sale from a vending machine or self-service display that is located in an area of a
- 1360 retailer's facility:
- 1361 (i) that is distinct and separate from the rest of the facility; and
- 1362 (ii) where the retailer only allows an individual who complies with Subsection (4) to
- 1363 be present~~;~~ or .
- 1364 [~~(c) a sale at a retail tobacco specialty business.~~]
- 1365 (4) An individual who is under 21 years old may not enter or be present at a retail tobacco
- 1366 specialty business unless the individual is:
- 1367 [~~(a) accompanied by a parent or legal guardian; or~~]
- 1368 [~~(b)(i)~~] (a) present at the retail tobacco specialty business solely for the purpose of
- 1369 providing a service to the retail tobacco specialty business, including making a
- 1370 delivery;
- 1371 [~~(ii)~~] (b) monitored by the proprietor of the retail tobacco specialty business or an
- 1372 employee of the retail tobacco specialty business; and
- 1373 [~~(iii)~~] (c) not permitted to make any purchase or conduct any commercial transaction
- 1374 other than the service described in Subsection [~~(4)(b)(i)~~] (4)(a).
- 1375 [~~(5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual~~
- 1376 ~~into an area described in Subsection (3)(b) or into a retail tobacco specialty business~~
- 1377 ~~may not allow the individual to purchase a tobacco product, an electronic cigarette~~
- 1378 ~~product, or a nicotine product.]~~
- 1379 [~~(6)~~] (5) A violation of Subsection (2) or (4) is a:
- 1380 (a) class ~~[C]~~ B misdemeanor on the first offense; and
- 1381 [~~(b) class B misdemeanor on the second offense; and~~]
- 1382 [~~(c)~~] (b) class A misdemeanor on any subsequent offenses.
- 1383 [~~(7) An individual who violates Subsection (5) is guilty of an offense under Section~~
- 1384 ~~76-10-104.]~~
- 1385 Section 23. Section **76-10-111** is amended to read:
- 1386 **76-10-111 (Effective upon governor's approval). Restrictions on sale of**
- 1387 **smokeless tobacco or electronic cigarette products -- Exceptions.**
- 1388 (1) The Legislature finds that:

- 1389 (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who
 1390 use those products because research indicates that they may cause mouth or oral
 1391 cancers;
- 1392 (b) the use of smokeless tobacco among juveniles in this state is [~~increasing rapidly~~] a
 1393 matter of great concern;
- 1394 (c) the use of electronic cigarette products may lead to unhealthy behavior such as the
 1395 use of tobacco products; and
- 1396 (d) it is necessary to restrict the gift of the products described in this Subsection (1) in
 1397 the interest of the health of the citizens of this state.
- 1398 (2)(a) Except as provided in Subsection (3), it is unlawful for a manufacturer,
 1399 wholesaler, and retailer to:
- 1400 (i) give or distribute without charge any smokeless tobacco, chewing tobacco, or
 1401 electronic cigarette product in this state;
- 1402 (ii) sell, offer for sale, or furnish any electronic cigarette product at less than the cost,
 1403 including the amount of any applicable tax, of the product to the manufacturer,
 1404 wholesaler, or retailer; or
- 1405 (iii) give, distribute, sell, offer for sale, or furnish any electronic cigarette product for
 1406 free or at a lower price because the recipient of the electronic cigarette product
 1407 makes another purchase.
- 1408 (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection
 1409 (2)(a)(ii) does not include a discount for:
- 1410 (i) a physical manufacturer coupon:
- 1411 (A) that is surrendered to the wholesaler or retailer at the time of sale; and
 1412 (B) for which the manufacturer will reimburse the wholesaler or the retailer for
 1413 the full amount of the discount described in the manufacturer coupon and
 1414 provided to the purchaser;
- 1415 (ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for
 1416 the full amount of the rebate provided to the purchaser; or
- 1417 (iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the
 1418 retailer for the full amount of the promotional fund provided to the purchaser.
- 1419 (c) Any individual who violates this section is guilty of:
- 1420 (i) a class [~~C~~] B misdemeanor for the first offense; and
 1421 (ii) a class [~~B~~] A misdemeanor for any subsequent offense.
- 1422 (3) Smokeless tobacco, chewing tobacco, or an electronic cigarette product may be

1423 distributed to adults without charge at professional conventions where the general public
1424 is excluded.

1425 Section 24. Section **76-10-112** is amended to read:

1426 **76-10-112 (Effective upon governor's approval). Prohibition of distribution of a**
1427 **tobacco product -- Exceptions.**

1428 (1) Except as provided in Subsection (3), it is unlawful for a manufacturer, wholesaler, or
1429 retailer to give or distribute a tobacco product in this state without charge.

1430 (2) An individual who violates this subsection is guilty of:

1431 (a) a class [C] B misdemeanor for the first offense; and

1432 (b) a class [B] A misdemeanor for any subsequent offense.

1433 (3) A tobacco product may be distributed to an adult without charge at a professional
1434 convention where the general public is excluded.

1435 (4) The prohibition described in Subsection (1) does not apply to a tobacco retailer, a
1436 manufacturer, or a distributor that gives a tobacco product to an individual who is 21
1437 years old or older upon the individual's purchase of a tobacco product.

1438 Section 25. Section **76-10-113** is amended to read:

1439 **76-10-113 (Effective upon governor's approval). Prohibition on distribution of**
1440 **flavored electronic cigarette products -- Prohibition of electronic cigarette products**
1441 **without federal authorization.**

1442 (1) [~~Subject to Subsection (2), it~~] It is unlawful for a tobacco retailer that is not a retail
1443 tobacco specialty business to give, distribute, sell, offer for sale, or furnish a flavored
1444 electronic cigarette product to any person.

1445 [~~(2) Notwithstanding Subsection (1), and beginning on January 1, 2025, it is unlawful for a~~
1446 ~~person to give, distribute, sell, offer for sale, or furnish to any person a flavored~~
1447 ~~electronic cigarette product.]~~

1448 [~~(3) Beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer~~
1449 ~~for sale, or furnish to any person an electronic cigarette product that is not a premarket~~
1450 ~~authorized or pending electronic cigarette product.]~~

1451 [~~(4)~~] (2) An individual who violates this section is guilty of:

1452 (a) a class [C] B misdemeanor for the first offense; and

1453 (b) a class [B] A misdemeanor for any subsequent offense.

1454 Section 26. Section **76-10-114** is amended to read:

1455 **76-10-114 (Effective upon governor's approval). Unlawful sale of a tobacco**
1456 **product, electronic cigarette product, or nicotine product.**

- 1457 (1) As used in this section:
- 1458 (a) "Compensatory service" means service or unpaid work performed by an employee, in
- 1459 lieu of the payment of a fine or imprisonment.
- 1460 (b) "Employee" means an employee or an owner of a tobacco retailer.
- 1461 (2) It is unlawful for an employee to knowingly or intentionally sell or give a tobacco
- 1462 product, an electronic cigarette product, or a nicotine product in the course of business to
- 1463 an individual who is under 21 years old.
- 1464 (3) An employee who violates this section is:
- 1465 (a) on a first violation:
- 1466 (i) guilty of [~~an infraction~~] a class C misdemeanor; and
- 1467 (ii) subject to:
- 1468 (A) a fine not exceeding \$1,000; or
- 1469 (B) compensatory service; or
- 1470 (b) on any subsequent violation:
- 1471 (i) guilty of a class [C] B misdemeanor; and
- 1472 (ii) subject to:
- 1473 (A) a fine not exceeding \$2,000; or
- 1474 (B) compensatory service.
- 1475 **Section 27. Repealer.**
- 1476 This bill repeals:
- 1477 **Section 26A-1-131, (Effective 07/01/24)Electronic cigarette registry enforcement.**
- 1478 **Section 59-14-810, (Effective 07/01/24)Electronic cigarette product registry.**
- 1479 **Section 28. Effective Date.**
- 1480 (1) Except as provided in Subsection (2), this bill takes effect:
- 1481 (a) except as provided in Subsection (1)(b), May 7, 2025; or
- 1482 (b) if approved by two-thirds of all members elected to each house:
- 1483 (i) upon approval by the governor;
- 1484 (ii) without the governor's signature, the day following the constitutional time limit of
- 1485 Utah Constitution, Article VII, Section 8; or
- 1486 (iii) in the case of a veto, the date of veto override.
- 1487 (2) The actions affecting the following sections take effect on July 1, 2025:
- 1488 (a) Section 59-14-901 (Effective 07/01/25);
- 1489 (b) Section 59-14-902 (Effective 07/01/25);
- 1490 (c) Section 59-14-903 (Effective 07/01/25);

- 1491 (d) Section 59-14-904 (Effective 07/01/25);
- 1492 (e) Section 59-14-905 (Effective 07/01/25);
- 1493 (f) Section 59-14-906 (Effective 07/01/25); and
- 1494 (g) Section 59-14-907 (Effective 07/01/25).