

ELECTRONIC CIGARETTE AND OTHER NICOTINE

PRODUCT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill enacts and amends provisions relating to electronic cigarette products and nicotine products.

Highlighted Provisions:

This bill:

- ▶ defines and coordinates terms;
- ▶ increases the minimum age for obtaining, possessing, using, providing, or furnishing of tobacco products, paraphernalia, and under certain circumstances, electronic cigarettes and nicotine products to 21 years old;
- ▶ imposes permitting requirements and processes for the sale of a nicotine product;
- ▶ requires a tobacco retailer to provide itemized receipts and to maintain an itemized transaction log for sales of a tobacco product, an electronic cigarette product, or a nicotine product;
- ▶ establishes a Youth Electronic Cigarette, Marijuana, and Other Drug Prevention

- 29 Program within the Department of Health;
- 30 ▶ creates a committee to advise the department on the Youth Electronic Cigarette,
31 Marijuana, and Other Drug Prevention Program;
- 32 ▶ creates the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant
33 Program operated by local health departments;
- 34 ▶ specifies requirements relating to the Electronic Cigarette, Marijuana, and Other
35 Drug Prevention Grant Program;
- 36 ▶ applies civil penalties to the improper sale of a nicotine product;
- 37 ▶ requires certain nicotine products to have a statement on the products' exterior
38 packages that the products contain nicotine;
- 39 ▶ creates a reduction on certain tax rates for products that are issued a modified risk
40 tobacco product order by the United States Food and Drug Administration;
- 41 ▶ imposes licensing and bonding requirements on a person that sells or distributes an
42 electronic cigarette product or a nicotine product;
- 43 ▶ imposes an excise tax on the sale in the state of an electronic cigarette substance, a
44 prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic
45 nicotine device substance, and a prefilled nontherapeutic nicotine device;
- 46 ▶ provides for the remittance of the tax collected;
- 47 ▶ creates the Electronic Cigarette Substance and Nicotine Product Tax Restricted
48 Account;
- 49 ▶ addresses use of revenue from the taxation of an electronic cigarette substance, a
50 prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic
51 nicotine device substance, and a prefilled nontherapeutic nicotine device;
- 52 ▶ provides criminal penalties for a sale or a purchase of an electronic cigarette product
53 or a nicotine product in violation of the law;
- 54 ▶ prohibits a manufacturer, a wholesaler, or a retailer from providing certain discounts
55 or giveaways for electronic cigarettes; and
- 56 ▶ makes technical and conforming changes.

57 **Money Appropriated in this Bill:**

58 None

59 **Other Special Clauses:**

60 This bill provides a special effective date.

61 **Utah Code Sections Affected:**

62 AMENDS:

63 **10-8-41.6**, as last amended by Laws of Utah 2018, Chapter 231

64 **10-8-47 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

65 **17-50-333**, as last amended by Laws of Utah 2018, Chapter 231

66 **26-1-7**, as last amended by Laws of Utah 2017, Chapter 419

67 **26-38-2**, as last amended by Laws of Utah 2018, Chapters 231 and 281

68 **26-57-101**, as enacted by Laws of Utah 2015, Chapter 132

69 **26-57-102**, as enacted by Laws of Utah 2015, Chapter 132

70 **26-62-101**, as enacted by Laws of Utah 2018, Chapter 231

71 **26-62-102**, as renumbered and amended by Laws of Utah 2018, Chapter 231

72 **26-62-201**, as enacted by Laws of Utah 2018, Chapter 231

73 **26-62-202**, as last amended by Laws of Utah 2019, Chapter 157

74 **26-62-205 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

75 **26-62-301**, as enacted by Laws of Utah 2018, Chapter 231

76 **26-62-304 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

77 **26-62-305 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

78 **26-62-306**, as renumbered and amended by Laws of Utah 2018, Chapter 231

79 **26A-1-128**, as enacted by Laws of Utah 2018, Chapter 231

80 **51-9-203 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapters 136

81 and 232

82 **53-3-229**, as last amended by Laws of Utah 2010, Chapters 114 and 276

83 **53-3-810**, as last amended by Laws of Utah 2010, Chapters 114 and 276

84 **53G-4-402**, as last amended by Laws of Utah 2019, Chapters 83, 293, and 451

85 **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293
86 **59-14-102**, as last amended by Laws of Utah 2013, Chapter 148
87 **59-14-302**, as last amended by Laws of Utah 2014, Chapter 189
88 **59-14-703 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
89 **59-14-801**, as enacted by Laws of Utah 2015, Chapter 132
90 **59-14-802**, as last amended by Laws of Utah 2019, Chapter 136
91 **59-14-803**, as last amended by Laws of Utah 2018, Chapter 231
92 **63I-1-226**, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and
93 last amended by Coordination Clause, Laws of Utah 2019, Chapter 246
94 **76-8-311.3**, as last amended by Laws of Utah 2010, Chapter 114
95 **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended
96 by Coordination Clause, Laws of Utah 2015, Chapter 132
97 **76-10-103 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
98 **76-10-104 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
99 **76-10-104.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
100 **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
101 **76-10-105.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
102 **76-10-111**, as last amended by Laws of Utah 2010, Chapter 114
103 **77-39-101 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
104 ENACTS:
105 **26-7-10**, Utah Code Annotated 1953
106 **26-57-104**, Utah Code Annotated 1953
107 **26-62-206**, Utah Code Annotated 1953
108 **26A-1-129**, Utah Code Annotated 1953
109 **59-14-104**, Utah Code Annotated 1953
110 **59-14-804**, Utah Code Annotated 1953
111 **59-14-805**, Utah Code Annotated 1953
112 **59-14-806**, Utah Code Annotated 1953

113 [59-14-807](#), Utah Code Annotated 1953

114 [59-14-808](#), Utah Code Annotated 1953

115

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

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

118 **10-8-41.6. Regulation of retail tobacco specialty business.**

119 (1) As used in this section:

120 (a) "Community location" means:

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

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

123 (iii) a trade or technical school;

124 (iv) a church;

125 (v) a public library;

126 (vi) a public playground;

127 (vii) a public park;

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

129 (ix) a public recreational facility;

130 (x) a public arcade; or

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

132 (b) "Department" means the Department of Health, created in Section [26-1-4](#).

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

134 [76-10-101](#).

135 (d) "Licensee" means a person licensed under this section to conduct business as a
136 retail tobacco specialty business.

137 [~~(e)~~] (e) "Local health department" means the same as that term is defined in Section
138 [26A-1-102](#).

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

140 [~~(d)~~] "~~Permittee~~" means a person licensed under this section to conduct business as a

141 ~~retail tobacco specialty business.]~~

142 ~~[(e)]~~ (g) "Retail tobacco specialty business" means a commercial establishment in
143 which:

144 (i) ~~[the sale of tobacco products accounts]~~ sales of tobacco products, electronic
145 cigarette products, and nicotine products account for more than 35% of the total quarterly gross
146 receipts for the establishment;

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

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

151 (iv) the retail space features a self-service display for tobacco products, electronic
152 cigarette products, or nicotine products.

153 ~~[(f)]~~ (h) "Self-service display" means the same as that term is defined in Section
154 ~~76-10-105.1~~.

155 ~~[(g)]~~ (i) "Tobacco product" means:

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

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

158 ~~[(i) any cigar, cigarette, or electronic cigarette, as those terms are defined in Section~~
159 ~~76-10-101;]~~

160 ~~[(ii) a tobacco product, as that term is defined in Section 59-14-102, including:]~~

161 ~~[(A) chewing tobacco; or]~~

162 ~~[(B) any substitute for a tobacco product, including flavoring or additives to tobacco;~~
163 ~~and]~~

164 ~~[(iii) tobacco paraphernalia, as that term is defined in Section 76-10-104.1.]~~

165 (2) The regulation of a retail tobacco specialty business is an exercise of the police
166 powers of the state, and through delegation, to other governmental entities.

167 (3) (a) A person may not operate a retail tobacco specialty business in a municipality
168 unless the person obtains a license from the municipality in which the retail tobacco specialty

169 business is located.

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

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

- 175 (i) 1,000 feet of a community location;
- 176 (ii) 600 feet of another retail tobacco specialty business; or
- 177 (iii) 600 feet from property used or zoned for:
 - 178 (A) agriculture use; or
 - 179 (B) residential use.

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

184 (5) ~~[(a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a]~~ A
185 municipality may not issue or renew a license for a person to conduct business as a retail
186 tobacco specialty business until the person provides the municipality with proof that the retail
187 tobacco specialty business has:

188 ~~[(i)]~~ (a) a valid permit for a retail tobacco specialty business issued under Title 26,
189 Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local
190 health department having jurisdiction over the area in which the retail tobacco specialty
191 business is located; and

192 ~~[(ii)]~~ (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State
193 Tax Commission in accordance with Section [59-14-201](#) or [59-14-301](#) to sell ~~[tobacco products~~
194 ~~from the State Tax Commission.]~~ a tobacco product; and

195 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
196 license issued by the State Tax Commission in accordance with Section [59-14-803](#) to sell an

197 electronic cigarette product or a nicotine product.

198 ~~[(b) A person that was licensed to conduct business as a retail tobacco specialty~~
199 ~~business in a municipality before July 1, 2018, shall obtain a permit from a local health~~
200 ~~department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.]~~

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

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

203 (ii) prohibits a municipality from adopting more restrictive requirements on a person
204 seeking a license or renewal of a license to conduct business as a retail tobacco specialty
205 business.

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

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

210 (ii) if a licensee violates the regulations restricting the sale and distribution of
211 cigarettes and smokeless tobacco to protect children and adolescents issued by the United
212 States Food and Drug Administration, 21 C.F.R. Part 1140;

213 (iii) upon the recommendation of the department or a local health department under
214 Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

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

216 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has
217 a retail tobacco specialty business license and is operating in a municipality in accordance with
218 all applicable laws except for the requirement in Subsection (4), on or before December 31,
219 2015, is exempt from Subsection (4).

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

222 (i) the retail tobacco specialty business license is renewed continuously without lapse
223 or permanent revocation;

224 (ii) the retail tobacco specialty business does not close for business or otherwise

225 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
226 more than 60 consecutive days;

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

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

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

232 (B) zoning ordinances;

233 (C) building codes; and

234 (D) the requirements of a retail tobacco specialty business license issued before
235 December 31, 2015.

236 Section 2. Section **10-8-47 (Effective 07/01/20)** is amended to read:

237 **10-8-47 (Effective 07/01/20). Intoxication -- Fights -- Disorderly conduct --**
238 **Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and**
239 **fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, tobacco**
240 **products, electronic cigarette products, or nicotine products to minors -- Possession of**
241 **controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

242 (1) A municipal legislative body may:

243 (a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights,
244 bullfights, and all disorderly conduct and provide against and punish the offenses of assault and
245 battery and petit larceny;

246 (b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street,
247 house, or place in the city;

248 (c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in
249 accordance with Section [53-7-225](#), or any other dangerous or combustible material;

250 (d) provide against and prevent the offense of obtaining money or property under false
251 pretenses and the offense of embezzling money or property in the cases when the money or
252 property embezzled or obtained under false pretenses does not exceed in value the sum of

253 \$500;

254 (e) prohibit the sale, giving away, or furnishing of narcotics or alcoholic beverages to
255 an individual younger than 21 years old; or

256 (f) prohibit the sale, giving away, or furnishing of [~~tobacco or e-cigarettes~~] a tobacco
257 product, an electronic cigarette product, or a nicotine product as those terms are defined in
258 Section 76-10-101 to an individual younger than[:] 21 years old.

259 [~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

260 [~~(ii) beginning July 1, 2021, 21 years old.]~~

261 (2) A city may:

262 (a) by ordinance, prohibit the possession of controlled substances as defined in the
263 Utah Controlled Substances Act or any other endangering or impairing substance, provided the
264 conduct is not a class A misdemeanor or felony; and

265 (b) provide for treatment of alcoholics, narcotic addicts, and other individuals who are
266 addicted to the use of drugs or intoxicants such that an individual substantially lacks the
267 capacity to control the individual's use of the drugs or intoxicants, and judicial supervision may
268 be imposed as a means of effecting the individual's rehabilitation.

269 Section 3. Section **17-50-333** is amended to read:

270 **17-50-333. Regulation of retail tobacco specialty business.**

271 (1) As used in this section:

272 (a) "Community location" means:

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

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

275 (iii) a trade or technical school;

276 (iv) a church;

277 (v) a public library;

278 (vi) a public playground;

279 (vii) a public park;

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

- 281 (ix) a public recreational facility;
- 282 (x) a public arcade; or
- 283 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 284 (b) "Department" means the Department of Health, created in Section [26-1-4](#).
- 285 (c) "Electronic cigarette product" means the same as that term is defined in Section
- 286 [76-10-101](#).
- 287 ~~[(e)]~~ (d) "Licensee" means a person licensed under this section to conduct business as a
- 288 retail tobacco specialty business.
- 289 ~~[(d)]~~ (e) "Local health department" means the same as that term is defined in Section
- 290 [26A-1-102](#).
- 291 (f) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).
- 292 ~~[(e)]~~ (g) "Retail tobacco specialty business" means a commercial establishment in
- 293 which:
- 294 (i) ~~[the sale of tobacco products accounts]~~ sales of tobacco products, electronic
- 295 cigarette products, and nicotine products account for more than 35% of the total quarterly gross
- 296 receipts for the establishment;
- 297 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 298 storage of tobacco products, electronic cigarette products, or nicotine products;
- 299 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
- 300 tobacco products, electronic cigarette products, or nicotine products; or
- 301 (iv) the retail space features a self-service display for tobacco products, electronic
- 302 cigarette products, or nicotine products.
- 303 ~~[(f)]~~ (h) "Self-service display" means the same as that term is defined in Section
- 304 [76-10-105.1](#).
- 305 ~~[(g)]~~ (i) "Tobacco product" means:
- 306 (i) the same as that term is defined in Section [76-10-101](#); or
- 307 (ii) tobacco paraphernalia as defined in Section [76-10-101](#).
- 308 ~~[(i) any cigar, cigarette, or electronic cigarette as those terms are defined in Section~~

309 ~~76-10-101;~~]

310 [(ii) a tobacco product as that term is defined in Section ~~59-14-102~~, including:]

311 [(A) chewing tobacco; or]

312 [(B) any substitute for a tobacco product, including flavoring or additives to tobacco;

313 and]

314 [(iii) tobacco paraphernalia as that term is defined in Section ~~76-10-104.1~~.]

315 (2) The regulation of a retail tobacco specialty business is an exercise of the police
316 powers of the state, and through delegation, to other governmental entities.

317 (3) (a) A person may not operate a retail tobacco specialty business in a county unless
318 the person obtains a license from the county in which the retail tobacco specialty business is
319 located.

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

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

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

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

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

328 (A) agriculture use; or

329 (B) residential use.

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

334 (5) [~~(a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a~~] A county
335 may not issue or renew a license for a person to conduct business as a retail tobacco specialty
336 business until the person provides the county with proof that the retail tobacco specialty

337 business has:

338 ~~[(i)]~~ (a) a valid permit for a retail tobacco specialty business issued under Title 26,
339 Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local
340 health department having jurisdiction over the area in which the retail tobacco specialty
341 business is located; and

342 ~~[(ii)]~~ (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State
343 Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell [tobacco products
344 from the State Tax Commission.] a tobacco product; or

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

348 ~~[(b) A person that was licensed to conduct business as a retail tobacco specialty~~
349 ~~business in a county before July 1, 2018, shall obtain a permit from a local health department~~
350 ~~under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.]~~

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

352 (i) requires a county to issue a retail tobacco specialty business license; or

353 (ii) prohibits a county from adopting more restrictive requirements on a person seeking
354 a license or renewal of a license to conduct business as a retail tobacco specialty business.

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

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

359 (ii) if a licensee violates the regulations restricting the sale and distribution of
360 cigarettes and smokeless tobacco to protect children and adolescents issued by the United
361 States Food and Drug Administration, 21 C.F.R. Part 1140;

362 (iii) upon the recommendation of the department or a local health department under
363 Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

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

365 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has
366 a retail tobacco specialty business license and is operating in a county in accordance with all
367 applicable laws except for the requirement in Subsection (4), on or before December 31, 2015,
368 is exempt from Subsection (4).

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

371 (i) the retail tobacco specialty business license is renewed continuously without lapse
372 or permanent revocation;

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

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

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

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

381 (B) zoning ordinances;

382 (C) building codes; and

383 (D) the requirements of a retail tobacco specialty business license issued before
384 December 31, 2015.

385 Section 4. Section **26-1-7** is amended to read:

386 **26-1-7. Committees within department.**

387 (1) There are created within the department the following committees:

388 (a) Health Facility Committee;

389 (b) State Emergency Medical Services Committee;

390 (c) Air Ambulance Committee;

391 (d) Health Data Committee;

392 (e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

- 393 (f) Residential Child Care Licensing Advisory Committee;
- 394 (g) Child Care Center Licensing Committee; [~~and~~]
- 395 (h) Primary Care Grant Committee[~~-~~]; and
- 396 (i) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee.

397 (2) The department shall:

398 (a) consolidate advisory groups and committees with other committees or advisory
399 groups as appropriate to create greater efficiencies and budgetary savings for the department;
400 and

401 (b) create in writing, time-limited and subject-limited duties for the advisory groups or
402 committees as necessary to carry out the responsibilities of the department.

403 Section 5. Section **26-7-10** is enacted to read:

404 **26-7-10. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention**
405 **Program.**

406 (1) As used in this section:

407 (a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug
408 Prevention Committee created in Section [26-1-7](#).

409 (b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug
410 Prevention Program created in this section.

411 (2) (a) There is created within the department the Youth Electronic Cigarette,
412 Marijuana, and Other Drug Prevention Program.

413 (b) In consultation with the committee, the department shall:

414 (i) establish guidelines for the use of funds appropriated to the program;

415 (ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and
416 appropriate for the population targeted by the program; and

417 (iii) subject to appropriations from the Legislature, fund statewide initiatives to prevent
418 use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.

419 (3) (a) The committee shall advise the department on:

420 (i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the

421 state;

422 (ii) developing the guidelines described in Subsection (2)(b)(i); and

423 (iii) implementing the provisions of the program.

424 (b) The executive director shall:

425 (i) appoint members of the committee; and

426 (ii) consult with the Utah Substance Use and Mental Health Advisory Council created

427 in Section 63M-7-301 when making the appointments under Subsection (3)(b)(i).

428 (c) The committee shall include, at a minimum:

429 (i) the executive director of a local health department as defined in Section 26A-1-102,

430 or the local health department executive director's designee;

431 (ii) one designee from the department;

432 (iii) one representative from the Department of Public Safety;

433 (iv) one representative from the behavioral health community; and

434 (v) one representative from the education community.

435 (d) A member of the committee may not receive compensation or benefits for the

436 member's service on the committee, but may receive per diem and travel expenses in

437 accordance with:

438 (i) Section 63A-3-106;

439 (ii) Section 63A-3-107; and

440 (iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

441 (e) The department shall provide staff support to the committee.

442 (4) On or before October 31 of each year, the department shall report to:

443 (a) the Health and Human Services Interim Committee regarding:

444 (i) the use of funds appropriated to the program;

445 (ii) the impact and results of the program, including the effectiveness of each program

446 funded under Subsection (2)(b)(iii), during the previous fiscal year;

447 (iii) a summary of the impacts and results on reducing youth use of electronic cigarettes

448 and nicotine products by entities represented by members of the committee, including those

449 entities who receive funding through the Electronic Cigarette Substance and Nicotine Product
450 Tax Restricted Account created in Section [59-14-807](#); and

451 (iv) any recommendations for legislation; and

452 (b) the Utah Substance Use and Mental Health Advisory Council created in Section
453 [63M-7-301](#), regarding:

454 (i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing
455 youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and

456 (ii) any collaborative efforts and partnerships established by the program with public
457 and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

458 Section 6. Section **26-38-2** is amended to read:

459 **26-38-2. Definitions.**

460 As used in this chapter:

461 [~~(1) "E-cigarette":~~]

462 [~~(a) means any electronic oral device;~~]

463 [~~(i) that provides an aerosol or a vapor of nicotine or other substance; and]~~

464 [~~(ii) which simulates smoking through its use or through inhalation of the device; and]~~

465 [~~(b) includes an oral device that is:~~]

466 [~~(i) composed of a heating element, battery, or electronic circuit; and]~~

467 [~~(ii) marketed, manufactured, distributed, or sold as:~~]

468 [~~(A) an e-cigarette;~~]

469 [~~(B) e-cigar;~~]

470 [~~(C) e-pipe; or]~~

471 [~~(D) any other product name or descriptor, if the function of the product meets the~~
472 ~~definition of Subsection (1)(a).]~~

473 (1) "Electronic cigarette" means the same as that term is defined in Section [76-10-101](#).

474 (2) "Non-tobacco shisha" means any product that:

475 (a) does not contain tobacco or nicotine; and

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

477 (3) "Place of public access" means any enclosed indoor place of business, commerce,
478 banking, financial service, or other service-related activity, whether publicly or privately owned
479 and whether operated for profit or not, to which persons not employed at the place of public
480 access have general and regular access or which the public uses, including:

- 481 (a) buildings, offices, shops, elevators, or restrooms;
- 482 (b) means of transportation or common carrier waiting rooms;
- 483 (c) restaurants, cafes, or cafeterias;
- 484 (d) taverns as defined in Section [32B-1-102](#), or cabarets;
- 485 (e) shopping malls, retail stores, grocery stores, or arcades;
- 486 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
487 sites, auditoriums, or arenas;
- 488 (g) barber shops, hair salons, or laundromats;
- 489 (h) sports or fitness facilities;
- 490 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
491 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
492 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
493 of these;
- 494 (j) (i) any child care facility or program subject to licensure or certification under this
495 title, including those operated in private homes, when any child cared for under that license is
496 present; and
- 497 (ii) any child care, other than child care as defined in Section [26-39-102](#), that is not
498 subject to licensure or certification under this title, when any child cared for by the provider,
499 other than the child of the provider, is present;
- 500 (k) public or private elementary or secondary school buildings and educational
501 facilities or the property on which those facilities are located;
- 502 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
503 religious organization when used solely by the organization members or their guests or
504 families;

505 (m) any facility rented or leased for private functions from which the general public is
506 excluded and arrangements for the function are under the control of the function sponsor;

507 (n) any workplace that is not a place of public access or a publicly owned building or
508 office but has one or more employees who are not owner-operators of the business;

509 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
510 stating "no smoking", "thank you for not smoking", or similar statement; and

511 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.

512 (4) "Publicly owned building or office" means any enclosed indoor place or portion of
513 a place owned, leased, or rented by any state, county, or municipal government, or by any
514 agency supported by appropriation of, or by contracts or grants from, funds derived from the
515 collection of federal, state, county, or municipal taxes.

516 (5) "Shisha" means any product that:

517 (a) contains tobacco or nicotine; and

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

519 (6) "Smoking" means:

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

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

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

524 (ii) shisha or non-tobacco shisha;

525 (iii) nicotine;

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

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

528 (c) using an [~~e-cigarette~~] electronic cigarette; or

529 (d) using an oral smoking device intended to circumvent the prohibition of smoking in
530 this chapter.

531 Section 7. Section 26-57-101 is amended to read:

532 **CHAPTER 57. ELECTRONIC CIGARETTE AND NICOTINE PRODUCT**

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REGULATION ACT

26-57-101. Title.

This chapter is known as the "Electronic Cigarette and Nicotine Product Regulation
Act."

Section 8. Section **26-57-102** is amended to read:

26-57-102. Definitions.

As used in this chapter:

(1) "Cigarette" means the same as that term is defined in Section [59-14-102](#).

(2) "Electronic cigarette" means the same as that term is defined in Section
~~[59-14-802]~~ [76-10-101](#).

(3) "Electronic cigarette product" means ~~[an electronic cigarette or an electronic
cigarette substance.]~~ the same as that term is defined in Section [76-10-101](#).

(4) "Electronic cigarette substance" means the same as that term is defined in Section
~~[59-14-802]~~ [76-10-101](#).

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

~~[(5)]~~ (6) "Manufacture" includes:

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

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

~~[(6)]~~ (7) "Manufacturer sealed electronic cigarette substance" means an electronic
cigarette substance that is sold in a container that:

(a) is ~~[pre-filled]~~ prefilled by the electronic cigarette substance manufacturer; and

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

(8) "Nicotine" means the same as that term is defined in Section [76-10-101](#).

(9) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).

Section 9. Section **26-57-104** is enacted to read:

26-57-104. Labeling of nicotine products containing nicotine.

(1) Any nicotine product shall contain the statement described in Subsection (2) if the

561 nicotine product:

562 (a) (i) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal
563 regulations; or

564 (ii) is not otherwise required under federal or state law to contain a nicotine warning;
565 and

566 (b) contains nicotine.

567 (2) A statement shall appear on the exterior packaging of a nicotine product described
568 in Subsection (1) as follows:

569 "This product contains nicotine."

570 Section 10. Section **26-62-101** is amended to read:

571 **CHAPTER 62. TOBACCO, ELECTRONIC CIGARETTE, AND NICOTINE**
572 **PRODUCT RETAIL PERMIT**

573 **26-62-101. Title.**

574 This chapter is known as "Tobacco, Electronic Cigarette, and Nicotine Product Retail
575 Permit."

576 Section 11. Section **26-62-102** is amended to read:

577 **26-62-102. Definitions.**

578 As used in this chapter:

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

580 (a) as it relates to a municipality, in Section [10-8-41.6](#); and

581 (b) as it relates to a county, in Section [17-50-333](#).

582 (2) "Electronic cigarette product" means the same as that term is defined in Section
583 [76-10-101](#).

584 [~~2~~] (3) "Employee" means an employee of a tobacco retailer.

585 [~~3~~] (4) "Enforcing agency" means the state Department of Health, or any local health
586 department enforcing the provisions of this chapter.

587 [~~4~~] (5) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco
588 specialty business.

589 ~~[(5)]~~ (6) "Local health department" means the same as that term is defined in Section
590 [26A-1-102](#).

591 (7) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).

592 ~~[(6)]~~ (8) "Permit" means a tobacco retail permit issued under this chapter.

593 ~~[(7)]~~ (9) "Retail tobacco specialty business" means the same as that term is defined:

594 (a) as it relates to a municipality, in Section [10-8-41.6](#); and

595 (b) as it relates to a county, in Section [17-50-333](#).

596 ~~[(8)]~~ (10) "Tax commission license" means a license issued by the State Tax

597 Commission under:

598 (a) Section [59-14-201](#) to sell ~~[cigarettes]~~ a cigarette at retail;

599 (b) Section [59-14-301](#) to sell ~~[tobacco products]~~ a tobacco product at retail; or

600 (c) Section [59-14-803](#) to sell an electronic cigarette product or a nicotine product.

601 ~~[(9)]~~ (11) "Tobacco product" means:

602 (a) a tobacco product as defined in Section [76-10-101](#); or

603 (b) tobacco paraphernalia as defined in Section [76-10-101](#).

604 ~~[(a) a cigar, cigarette, or electronic cigarette as those terms are defined in Section~~
605 [76-10-101](#);

606 ~~[(b) a tobacco product as that term is defined in Section [59-14-102](#), including:]~~

607 ~~[(i) chewing tobacco; or]~~

608 ~~[(ii) any substitute for a tobacco product, including flavoring or additives to tobacco;~~

609 ~~or]~~

610 ~~[(c) tobacco paraphernalia as that term is defined in Section [76-10-104.1](#).]~~

611 ~~[(10)]~~ (12) "Tobacco retailer" means a person that is required to obtain a tax

612 commission license.

613 Section 12. Section [26-62-201](#) is amended to read:

614 **[26-62-201](#). Permitting requirement.**

615 (1) (a) ~~[Beginning July 1, 2018, a]~~ A tobacco retailer shall hold a valid tobacco retail
616 permit issued in accordance with this chapter by the local health department with jurisdiction

617 over the physical location where the tobacco retailer operates.

618 (b) A tobacco retailer without a valid permit may not:

619 (i) place [tobacco products] a tobacco product, an electronic cigarette product, or a
620 nicotine product in public view;

621 (ii) display any advertisement related to [tobacco products] a tobacco product, an
622 electronic cigarette product, or a nicotine product that promotes the sale, distribution, or use of
623 those products; or

624 (iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco [~~or~~
625 ~~tobacco products~~], a tobacco product, an electronic cigarette product, or a nicotine product.

626 (2) A local health department may issue a permit under this chapter for a tobacco
627 retailer in the classification of:

628 (a) a general tobacco retailer; or

629 (b) a retail tobacco specialty business.

630 (3) A permit under this chapter is:

631 (a) valid only for one physical location, including a vending machine;

632 (b) valid only at one fixed business address; and

633 (c) if multiple tobacco retailers are at the same address, separately required for each
634 tobacco retailer.

635 ~~[(4) Notwithstanding the requirement in Subsection (1), a person that holds a tax~~
636 ~~commission license that was valid on July 1, 2018:]~~

637 ~~[(a) may operate without a permit under this chapter until December 31, 2018; and]~~

638 ~~[(b) shall obtain a permit from a local health department under this chapter before~~
639 ~~January 1, 2019:]~~

640 Section 13. Section **26-62-202** is amended to read:

641 **26-62-202. Permit application.**

642 (1) A local health department shall issue a permit under this chapter for a tobacco
643 retailer if the local health department determines that the applicant:

644 (a) accurately provided all information required under Subsection (3) and, if applicable,

645 Subsection (4); and

646 (b) meets all requirements for a permit under this chapter.

647 (2) An applicant for a permit shall:

648 (a) submit an application described in Subsection (3) to the local health department

649 with jurisdiction over the area where the tobacco retailer is located; and

650 (b) pay all applicable fees described in Section 26-62-203.

651 (3) The application for a permit shall include:

652 (a) the name, address, and telephone number of each proprietor;

653 (b) the name and mailing address of each proprietor authorized to receive

654 permit-related communication and notices;

655 (c) the business name, address, and telephone number of the single, fixed location for

656 which a permit is sought;

657 (d) evidence that the location for which a permit is sought has a valid tax commission

658 license;

659 (e) information regarding whether, in the past 24 months, any proprietor of the tobacco

660 retailer has been determined to have violated, or has been a proprietor at a location that has

661 been determined to have violated:

662 (i) a provision of this chapter;

663 (ii) Chapter 38, Utah Indoor Clean Air Act;

664 (iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical

665 Solvents;

666 (iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

667 (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco

668 issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

669 (vi) any other provision of state law or local ordinance regarding the sale, marketing, or

670 distribution of [~~tobacco products~~] a tobacco product, an electronic cigarette product, or a

671 nicotine product; and

672 (f) the dates of all violations disclosed under this Subsection (3).

673 (4) (a) In addition to the information described in Subsection (3), an applicant for a
 674 retail tobacco specialty business permit shall include evidence showing whether the business is
 675 located within:

- 676 (i) 1,000 feet of a community location;
- 677 (ii) 600 feet of another retail tobacco specialty business; or
- 678 (iii) 600 feet of property used or zoned for agricultural or residential use.

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

683 (5) The department or a local health department may not deny a permit to a retail
 684 tobacco specialty business under Subsection (4) if the retail tobacco specialty business obtained
 685 a license to operate the retail tobacco specialty business before December 31, 2015, from:

- 686 (a) a municipality under Section 10-8-41.6; or
- 687 (b) a county under Section 17-50-333.

688 (6) (a) The department shall establish by rule made in accordance with Title 63G,
 689 Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments
 690 in accordance with this chapter.

691 (b) The permit process established by the department under Subsection (6)(a) may not
 692 require any information in an application that is not required by this section.

693 Section 14. Section 26-62-205 (Effective 07/01/20) is amended to read:

694 **26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty**
 695 **business.**

696 A retail tobacco specialty business shall:

- 697 (1) except as provided in Subsection 76-10-105.1(4), prohibit any individual from
 698 entering the business if the individual is[:] younger than 21 years old; and
 699 [~~(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and~~]
 700 [~~(b) beginning July 1, 2021, under 21 years old; and~~]

701 (2) prominently display at the retail tobacco specialty business a sign on the public
702 entrance of the business that communicates the prohibition in Subsection [76-10-105.1\(4\)](#).

703 Section 15. Section **26-62-206** is enacted to read:

704 **26-62-206. Requirements for the sale of tobacco product, electronic cigarette**
705 **product, or nicotine product.**

706 (1) A tobacco retailer shall:

707 (a) provide the customer with an itemized receipt for each sale of a tobacco product, an
708 electronic cigarette product, or a nicotine product that separately identifies:

709 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine
710 product;

711 (ii) the amount charged for each tobacco product, electronic cigarette product, or
712 nicotine product; and

713 (iii) the date and time of the sale; and

714 (b) maintain an itemized transaction log for each sale of a tobacco product, an
715 electronic cigarette product, or a nicotine product that separately identifies:

716 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine
717 product;

718 (ii) the amount charged for each tobacco product, electronic cigarette product, or
719 nicotine product; and

720 (iii) the date and time of the sale.

721 (2) The itemized transaction log described in Subsection (1)(b) shall be:

722 (a) maintained for at least one year after the date of each transaction in the itemized
723 transaction log;

724 (b) made available to an enforcing agency or a peace officer at the request of the
725 enforcing agency or the peace officer; and

726 (c) in addition to any documentation required under Section [59-1-1406](#) and Subsection
727 [59-14-805\(2\)](#).

728 Section 16. Section **26-62-301** is amended to read:

729 **26-62-301. Permit violation.**

730 A person is in violation of the permit issued under this chapter if the person violates:

731 (1) a provision of this chapter;

732 (2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;

733 (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic
734 Chemical Solvents;

735 (4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

736 (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco
737 issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

738 (6) any other provision of state law or local ordinance regarding the sale, marketing, or
739 distribution of ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a
740 nicotine product.

741 Section 17. Section **26-62-304 (Effective 07/01/20)** is amended to read:

742 **26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

743 (1) At a civil hearing conducted under Section 26-62-302, evidence of the final
744 criminal conviction of a tobacco retailer or employee for violation of Section 76-10-104 at the
745 same location and within the same time period as the location and time period alleged in the
746 civil hearing for violation of this chapter for sale of ~~[tobacco products]~~ a tobacco product, an
747 electronic cigarette product, or a nicotine product to an individual under ~~[the following ages]~~
748 21 years old is prima facie evidence of a violation of this chapter[:].

749 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

750 ~~[(b) beginning July 1, 2021, under 21 years old.]~~

751 (2) If the tobacco retailer is convicted of violating Section 76-10-104, the enforcing
752 agency:

753 (a) may not assess an additional monetary penalty under this chapter for the same
754 offense for which the conviction was obtained; and

755 (b) may revoke or suspend a permit in accordance with Section 26-62-305.

756 Section 18. Section **26-62-305 (Effective 07/01/20)** is amended to read:

757 **26-62-305 (Effective 07/01/20). Penalties.**

758 (1) (a) If, following an inspection by an enforcing agency, or an investigation or
759 issuance of a citation or information under Section 77-39-101, an enforcing agency determines
760 that a person has violated the terms of a permit issued under this chapter, the enforcing agency
761 may impose the penalties described in this section.

762 (b) If multiple violations are found in a single inspection or investigation, only one
763 violation shall count toward the penalties described in this section.

764 (2) (a) The administrative penalty for a first violation at a retail location is a penalty of
765 not more than \$500.

766 (b) The administrative penalty for a second violation at the same retail location that
767 occurs within one year of a previous violation is a penalty of not more than \$750.

768 (c) The administrative penalty for a third or subsequent violation at the same retail
769 location that occurs within two years after two or more previous violations is:

770 (i) a suspension of the retail tobacco business permit for 30 consecutive business days
771 within 60 days after the day on which the third or subsequent violation occurs; or

772 (ii) a penalty of not more than \$1,000.

773 (3) The department or a local health department may:

774 (a) revoke a permit if a fourth violation occurs within two years of three previous
775 violations;

776 (b) in addition to a monetary penalty imposed under Subsection (2), suspend the permit
777 if the violation is due to a sale of ~~[tobacco products]~~ a tobacco product, an electronic cigarette
778 product, or a nicotine product to an individual under~~[:]~~ 21 years old; and

779 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

780 ~~[(ii) beginning July 1, 2021, 21 years old; and]~~

781 (c) if applicable, recommend to a municipality or county that a retail tobacco specialty
782 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

783 (4) (a) Except when a transfer described in Subsection (5) occurs, a local health
784 department may not issue a permit to:

785 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (3);

786 or

787 (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner,

788 or other holder of significant interest as another tobacco retailer for whom a permit is

789 suspended or revoked under Subsection (3).

790 (b) A person whose permit:

791 (i) is suspended under this section may not apply for a new permit for any other

792 tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends

793 the permit; and

794 (ii) is revoked may not apply for a new permit for any tobacco retailer for a period of

795 24 months after the day on which an enforcing agency revokes the permit.

796 (5) Violations of this chapter, Section 10-8-41.6, or Section 17-50-333 that occur at a

797 tobacco retailer location shall stay on the record for that tobacco retailer location unless:

798 (a) the tobacco retailer is transferred to a new proprietor; and

799 (b) the new proprietor provides documentation to the local health department that the

800 new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous

801 proprietor.

802 Section 19. Section 26-62-306 is amended to read:

803 **26-62-306. Recognition of tobacco retailer training program.**

804 (1) In determining the amount of the monetary penalty to be imposed for an employee's

805 violation of this chapter, a hearing officer shall reduce the civil penalty by at least 50% if the

806 hearing officer determines that:

807 (a) the tobacco retailer has implemented a documented employee training program; and

808 (b) the employees have completed that training program within 30 days after the day on

809 which each employee commences the duties of selling [~~tobacco products~~] a tobacco product, an

810 electronic cigarette product, or a nicotine product.

811 (2) (a) For the first offense at a location, if the hearing officer determines under

812 Subsection (1) that the tobacco retailer licensee has not implemented a documented training

813 program with a written curriculum for employees at that location regarding compliance with
814 this chapter, the hearing officer may suspend all or a portion of the penalty if:

815 (i) the tobacco retailer agrees to initiate a training program for employees at that
816 location; and

817 (ii) the training program begins within 30 days after the hearing officer makes a
818 determination under this Subsection (2)(a).

819 (b) If the hearing officer determines at a subsequent hearing that the tobacco retailer
820 has not implemented the training program within the time period required under Subsection
821 (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty, unless the
822 tobacco retailer demonstrates good cause for an extension of time for implementation of the
823 training program.

824 Section 20. Section 26A-1-128 is amended to read:

825 **26A-1-128. Tobacco, electronic cigarette, and nicotine product permits --**

826 **Enforcement.**

827 A local health department:

828 (1) shall enforce the requirements of Title 26, Chapter 62, Tobacco, Electronic
829 Cigarette, and Nicotine Product Retail Permit;

830 (2) may enforce licensing requirements for entities that hold a business license to sell
831 [~~tobacco products~~] a tobacco product, an electronic cigarette product, or a nicotine product
832 under Section 10-8-41.6 or Section 17-50-333; and

833 (3) may recommend to a municipality or county that the business license of a retail
834 tobacco specialty business be suspended or revoked for a violation of Section 10-8-41.6,
835 Section 17-50-333, or Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine
836 Product Retail Permit.

837 Section 21. Section 26A-1-129 is enacted to read:

838 **26A-1-129. Electronic Cigarette, Marijuana, and Other Drug Prevention Grant**

839 **Program -- Reporting.**

840 (1) As used in this section, "grant program" means the Electronic Cigarette, Marijuana,

841 and Other Drug Prevention Grant Program created in this section.

842 (2) There is created the Electronic Cigarette, Marijuana, and Other Drug Prevention
843 Grant Program which shall be administered by local health departments in accordance with this
844 section.

845 (3) (a) A local health department shall administer the grant program with funds
846 allocated to the grant program under Subsection 59-14-807(4)(d), to award grants to:

847 (i) a coalition of community organizations that is focused on substance abuse
848 prevention;

849 (ii) a local government agency, including a law enforcement agency, for a program that
850 is focused on substance abuse prevention; or

851 (iii) a local education agency as defined in Section 53J-1-301.

852 (b) A recipient of a grant under the grant program shall use the grant to address root
853 causes and factors associated with the use of electronic cigarettes, marijuana, and other drugs:

854 (i) by addressing one or more risk or protective factors identified in the Utah Student
855 Health and Risk Prevention Statewide Survey; and

856 (ii) through one or more of the following activities aimed at reducing use of electronic
857 cigarettes, marijuana, and other drugs:

858 (A) providing information;

859 (B) enhancing individual skills;

860 (C) providing support to activities that reduce risk or enhance protections;

861 (D) enhancing access or reducing barriers systems, processes, or programs;

862 (E) changing consequences by addressing incentives or disincentives;

863 (F) changing the physical design or structure of an environment to reduce risk or
864 enhance protections; or

865 (G) supporting modifications or changing policies.

866 (c) The grant program shall provide funding for a program or purpose that is:

867 (i) evidence-based; or

868 (ii) a promising practice as defined by the United States Centers for Disease Control

869 and Prevention.

870 (4) (a) An applicant for a grant under the grant program shall submit an application to
871 the local health department that has jurisdiction over the area in which the applicant is
872 proposing use of grant funds.

873 (b) The application described in Subsection (4)(a) shall:

874 (i) provide a summary of how the applicant intends to expend grant funds; and

875 (ii) describe how the applicant will meet the requirements described in Subsection (3).

876 (c) A local health department may establish the form or manner in which an applicant
877 must submit an application for the grant program under this section.

878 (5) (a) A local health department shall:

879 (i) on or before June 30 of each year:

880 (A) review each grant application the local health department receives for the grant
881 program; and

882 (B) select recipients for a grant under the grant program; and

883 (ii) before July 15 of each year, disperse grant funds to each selected recipient.

884 (b) A local health department may not award a single grant under this section in an
885 amount that exceeds \$100,000.

886 (6) (a) Before August 1 of each year, a recipient of a grant under the grant program
887 shall, for the previous year, submit a report to the local health department that:

888 (i) provides an accounting for the expenditure of grant funds;

889 (ii) describes measurable outcomes as a result of the expenditures;

890 (iii) describes the impact and effectiveness of programs and activities funded through
891 the grant; and

892 (iv) indicates the amount of grant funds remaining on the date that the report is
893 submitted.

894 (b) (i) A grant recipient shall submit the report described in Subsection (6)(a) before
895 August 1 of each year until the grant recipient expends all funds awarded to the recipient under
896 the grant program.

897 (ii) After a grant recipient expends all funds awarded to the recipient under the grant
898 program, the grant recipient shall submit a final report to the local health department with the
899 information described in Subsection (6)(a).

900 (7) (a) On or before September 1 of each year, each local health department shall
901 submit the reports described in Subsection (6) to the Association of Local Health Departments.

902 (b) The Association of Local Health Departments shall compile the reports and, in
903 collaboration with the Department of Health, submit a report to the Health and Human Services
904 Interim Committee regarding:

905 (i) the use of funds appropriated to the grant program;

906 (ii) the impact and effectiveness of programs and activities that the grant program
907 funds during the previous fiscal year; and

908 (iii) any recommendations for legislation.

909 Section 22. Section **51-9-203 (Effective 07/01/20)** is amended to read:

910 **51-9-203 (Effective 07/01/20). Requirements for tobacco programs.**

911 (1) To be eligible to receive funding under this part for a tobacco prevention, reduction,
912 cessation, or control program, an organization, whether private, governmental, or
913 quasi-governmental, shall:

914 (a) submit a request to the Department of Health containing the following information:

915 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate
916 sound management and periodic evaluation of the campaign's relevance to the intended
917 audience, particularly in campaigns directed toward youth, including audience awareness of the
918 campaign and recollection of the main message;

919 (ii) for school-based education programs to prevent and reduce youth smoking, the
920 request shall describe how the program will be effective in preventing and reducing youth
921 smoking;

922 (iii) for community-based programs to prevent and reduce smoking, the request shall
923 demonstrate that the proposed program:

924 (A) has a comprehensive strategy with a clear mission and goals;

- 925 (B) provides for committed, caring, and professional leadership; and
926 (C) if directed toward youth:
927 (I) offers youth-centered activities in youth accessible facilities;
928 (II) is culturally sensitive, inclusive, and diverse;
929 (III) involves youth in the planning, delivery, and evaluation of services that affect
930 them; and
931 (IV) offers a positive focus that is inclusive of all youth; and
932 (iv) for enforcement, control, and compliance program, the request shall demonstrate
933 that the proposed program can reasonably be expected to reduce the extent to which tobacco
934 products are available to individuals under [~~the following ages:~~ 21 years old;
935 [~~(A) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~
936 [~~(B) beginning July 1, 2021, 21 years old;~~]
937 (b) agree, by contract, to file an annual written report with the Department of Health
938 that contains the following:
939 (i) the amount funded;
940 (ii) the amount expended;
941 (iii) a description of the program or campaign and the number of adults and youth who
942 participated;
943 (iv) specific elements of the program or campaign meeting the applicable criteria set
944 forth in Subsection (1)(a); and
945 (v) a statement concerning the success and effectiveness of the program or campaign;
946 (c) agree, by contract, to not use any funds received under this part directly or
947 indirectly, to:
948 (i) engage in any lobbying or political activity, including the support of, or opposition
949 to, candidates, ballot questions, referenda, or similar activities; or
950 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to
951 enforce:
952 (A) the provisions of the Master Settlement Agreement;

- 953 (B) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 954 (C) Title 26, Chapter 62, Part 3, Enforcement; and
- 955 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and
- 956 (d) agree, by contract, to repay the funds provided under this part if the organization:
- 957 (i) fails to file a timely report as required by Subsection (1)(b); or
- 958 (ii) uses any portion of the funds in violation of Subsection (1)(c).
- 959 (2) The Department of Health shall review and evaluate the success and effectiveness
- 960 of any program or campaign that receives funding pursuant to a request submitted under
- 961 Subsection (1). The review and evaluation:
- 962 (a) shall include a comparison of annual smoking trends;
- 963 (b) may be conducted by an independent evaluator; and
- 964 (c) may be paid for by funds appropriated from the account for that purpose.
- 965 (3) The Department of Health shall annually report to the Social Services
- 966 Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).
- 967 (4) An organization that fails to comply with the contract requirements set forth in
- 968 Subsection (1) shall:
- 969 (a) repay the state as provided in Subsection (1)(d); and
- 970 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.
- 971 (5) The attorney general shall be responsible for recovering funds that are required to
- 972 be repaid to the state under this section.
- 973 (6) Nothing in this section may be construed as applying to funds that are not
- 974 appropriated under this part.

975 Section 23. Section **53-3-229** is amended to read:

976 **53-3-229. Prohibited uses of license certificate -- Penalty.**

977 (1) It is a class C misdemeanor for [~~a person~~] an individual to:

- 978 (a) lend or knowingly permit the use of a license certificate issued to the [~~person~~]
- 979 individual, by [~~a person~~] another individual not entitled to it;
- 980 (b) display or to represent as the [~~person's~~] individual's own a license certificate not

981 issued to the ~~[person]~~ individual;

982 (c) refuse to surrender to the division or a peace officer upon demand any license
983 certificate issued by the division;

984 (d) use a false name or give a false address in any application for a license or any
985 renewal or duplicate of the license certificate, or to knowingly make a false statement, or to
986 knowingly conceal a material fact or otherwise commit a fraud in the application;

987 (e) display a canceled, denied, revoked, suspended, or disqualified driver license
988 certificate as a valid driver license certificate;

989 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
990 driver license certificate issued by a governmental entity if the item is not an authentic driver
991 license certificate issued by that governmental entity; or

992 (g) alter any information on an authentic driver license certificate so that it no longer
993 represents the information originally displayed.

994 (2) The provisions of Subsection (1)(e) do not prohibit the use of ~~[a person's]~~ an
995 individual's driver license certificate as a means of personal identification.

996 (3) It is a class A misdemeanor to knowingly:

997 (a) issue a driver license certificate with false or fraudulent information;

998 (b) issue a driver license certificate to a person younger than 21 years of age if the
999 driver license certificate is not distinguished as required for ~~[a person]~~ an individual younger
1000 than 21 years of age under Section [53-3-207](#); or

1001 (c) acquire, use, display, or transfer a false or altered driver license certificate to
1002 procure~~[-]~~ a tobacco product, an electronic cigarette product, or a nicotine product as those
1003 terms are defined in Section [76-10-101](#).

1004 ~~[(i) a cigarette;]~~

1005 ~~[(ii) an electronic cigarette, as defined in Section [76-10-101](#);~~

1006 ~~[(iii) tobacco; or]~~

1007 ~~[(iv) a tobacco product.]~~

1008 (4) ~~[A person]~~ An individual may not use, display, or transfer a false or altered driver

1009 license certificate to procure alcoholic beverages, gain admittance to a place where alcoholic
1010 beverages are sold or consumed, or obtain employment that may not be obtained by a minor in
1011 violation of Section [32B-1-403](#).

1012 (5) It is a third degree felony if [~~a person's~~] an individual's acquisition, use, display, or
1013 transfer of a false or altered driver license certificate:

1014 (a) aids or furthers the [~~person's~~] individual's efforts to fraudulently obtain goods or
1015 services; or

1016 (b) aids or furthers the [~~person's~~] individual's efforts to commit a violent felony.

1017 Section 24. Section **53-3-810** is amended to read:

1018 **53-3-810. Prohibited uses of identification card -- Penalties.**

1019 (1) It is a class C misdemeanor to:

1020 (a) lend or knowingly permit the use of an identification card issued to the [~~person~~]
1021 individual, by [~~a person~~] an individual not entitled to it;

1022 (b) display or to represent as the [~~person's~~] individual's own an identification card not
1023 issued to the [~~person~~] individual;

1024 (c) refuse to surrender to the division or a peace officer upon demand any identification
1025 card issued by the division;

1026 (d) use a false name or give a false address in any application for an identification card
1027 or any renewal or duplicate of the identification card, or to knowingly make a false statement,
1028 or to knowingly conceal a material fact in the application;

1029 (e) display a revoked identification card as a valid identification card;

1030 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
1031 identification card issued by a governmental entity if the item is not an authentic identification
1032 card issued by that governmental entity; or

1033 (g) alter any information contained on an authentic identification card so that it no
1034 longer represents the information originally displayed.

1035 (2) It is a class A misdemeanor to knowingly:

1036 (a) issue an identification card with false or fraudulent information;

1037 (b) issue an identification card to ~~[any person]~~ an individual who is younger than 21
1038 years of age if the identification card is not distinguished as required for ~~[a person]~~ an
1039 individual who is younger than 21 years of age under Section 53-3-806; or

1040 (c) acquire, use, display, or transfer a false or altered identification card to procure~~[:]~~ a
1041 tobacco product, an electronic cigarette product, or a nicotine product as those terms are
1042 defined in Section 76-10-101.

1043 ~~[(i) a cigarette;]~~

1044 ~~[(ii) an electronic cigarette, as defined in Section 76-10-101;]~~

1045 ~~[(iii) tobacco; or]~~

1046 ~~[(iv) a tobacco product.]~~

1047 (3) ~~[A person]~~ An individual may not knowingly use, display, or transfer a false or
1048 altered identification card to procure alcoholic beverages, gain admittance to a place where
1049 alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a
1050 minor in violation of Section 32B-1-403.

1051 (4) It is a third degree felony if ~~[a person's]~~ an individual's acquisition, use, display, or
1052 transfer of a false or altered identification card:

1053 (a) aids or furthers the ~~[person's]~~ individual's efforts to fraudulently obtain goods or
1054 services; or

1055 (b) aids or furthers the ~~[person's]~~ individual's efforts to commit a violent felony.

1056 Section 25. Section **53G-4-402** is amended to read:

1057 **53G-4-402. Powers and duties generally.**

1058 (1) A local school board shall:

1059 (a) implement the core standards for Utah public schools using instructional materials
1060 that best correlate to the core standards for Utah public schools and graduation requirements;

1061 (b) administer tests, required by the state board, which measure the progress of each
1062 student, and coordinate with the state superintendent and state board to assess results and create
1063 plans to improve the student's progress, which shall be submitted to the state board for
1064 approval;

1065 (c) use progress-based assessments as part of a plan to identify schools, teachers, and
1066 students that need remediation and determine the type and amount of federal, state, and local
1067 resources to implement remediation;

1068 (d) develop early warning systems for students or classes failing to make progress;

1069 (e) work with the state board to establish a library of documented best practices,
1070 consistent with state and federal regulations, for use by the local districts;

1071 (f) implement training programs for school administrators, including basic
1072 management training, best practices in instructional methods, budget training, staff
1073 management, managing for learning results and continuous improvement, and how to help
1074 every child achieve optimal learning in basic academic subjects; and

1075 (g) ensure that the local school board meets the data collection and reporting standards
1076 described in Section [53E-3-501](#).

1077 (2) Local school boards shall spend Minimum School Program funds for programs and
1078 activities for which the state board has established minimum standards or rules under Section
1079 [53E-3-501](#).

1080 (3) (a) A local school board may purchase, sell, and make improvements on school
1081 sites, buildings, and equipment and construct, erect, and furnish school buildings.

1082 (b) School sites or buildings may only be conveyed or sold on local school board
1083 resolution affirmed by at least two-thirds of the members.

1084 (4) (a) A local school board may participate in the joint construction or operation of a
1085 school attended by children residing within the district and children residing in other districts
1086 either within or outside the state.

1087 (b) Any agreement for the joint operation or construction of a school shall:

1088 (i) be signed by the president of the local school board of each participating district;

1089 (ii) include a mutually agreed upon pro rata cost; and

1090 (iii) be filed with the state board.

1091 (5) A local school board may establish, locate, and maintain elementary, secondary,
1092 and applied technology schools.

1093 (6) Except as provided in Section 53E-3-905, a local school board may enroll children
1094 in school who are at least five years of age before September 2 of the year in which admission
1095 is sought.

1096 (7) A local school board may establish and support school libraries.

1097 (8) A local school board may collect damages for the loss, injury, or destruction of
1098 school property.

1099 (9) A local school board may authorize guidance and counseling services for children
1100 and their parents before, during, or following enrollment of the children in schools.

1101 (10) (a) A local school board shall administer and implement federal educational
1102 programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National
1103 Education Programs.

1104 (b) Federal funds are not considered funds within the school district budget under
1105 Chapter 7, Part 3, Budgets.

1106 (11) (a) A local school board may organize school safety patrols and adopt policies
1107 under which the patrols promote student safety.

1108 (b) A student appointed to a safety patrol shall be at least 10 years old and have written
1109 parental consent for the appointment.

1110 (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion
1111 of a highway intended for vehicular traffic use.

1112 (d) Liability may not attach to a school district, its employees, officers, or agents or to a
1113 safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting
1114 the program by virtue of the organization, maintenance, or operation of a school safety patrol.

1115 (12) (a) A local school board may on its own behalf, or on behalf of an educational
1116 institution for which the local school board is the direct governing body, accept private grants,
1117 loans, gifts, endowments, devises, or bequests that are made for educational purposes.

1118 (b) These contributions are not subject to appropriation by the Legislature.

1119 (13) (a) A local school board may appoint and fix the compensation of a compliance
1120 officer to issue citations for violations of Subsection 76-10-105(2)(b).

1121 (b) A person may not be appointed to serve as a compliance officer without the
1122 person's consent.

1123 (c) A teacher or student may not be appointed as a compliance officer.

1124 (14) A local school board shall adopt bylaws and policies for the local school board's
1125 own procedures.

1126 (15) (a) A local school board shall make and enforce policies necessary for the control
1127 and management of the district schools.

1128 (b) Local school board policies shall be in writing, filed, and referenced for public
1129 access.

1130 (16) A local school board may hold school on legal holidays other than Sundays.

1131 (17) (a) A local school board shall establish for each school year a school traffic safety
1132 committee to implement this Subsection (17).

1133 (b) The committee shall be composed of one representative of:

1134 (i) the schools within the district;

1135 (ii) the Parent Teachers' Association of the schools within the district;

1136 (iii) the municipality or county;

1137 (iv) state or local law enforcement; and

1138 (v) state or local traffic safety engineering.

1139 (c) The committee shall:

1140 (i) receive suggestions from school community councils, parents, teachers, and others
1141 and recommend school traffic safety improvements, boundary changes to enhance safety, and
1142 school traffic safety program measures;

1143 (ii) review and submit annually to the Department of Transportation and affected
1144 municipalities and counties a child access routing plan for each elementary, middle, and junior
1145 high school within the district;

1146 (iii) consult the Utah Safety Council and the Division of Family Health Services and
1147 provide training to all school children in kindergarten through grade 6, within the district, on
1148 school crossing safety and use; and

1149 (iv) help ensure the district's compliance with rules made by the Department of
1150 Transportation under Section 41-6a-303.

1151 (d) The committee may establish subcommittees as needed to assist in accomplishing
1152 its duties under Subsection (17)(c).

1153 (18) (a) A local school board shall adopt and implement a comprehensive emergency
1154 response plan to prevent and combat violence in the local school board's public schools, on
1155 school grounds, on its school vehicles, and in connection with school-related activities or
1156 events.

1157 (b) The plan shall:

1158 (i) include prevention, intervention, and response components;

1159 (ii) be consistent with the student conduct and discipline policies required for school
1160 districts under Chapter 11, Part 2, Miscellaneous Requirements;

1161 (iii) require professional learning for all district and school building staff on what their
1162 roles are in the emergency response plan;

1163 (iv) provide for coordination with local law enforcement and other public safety
1164 representatives in preventing, intervening, and responding to violence in the areas and activities
1165 referred to in Subsection (18)(a); and

1166 (v) include procedures to notify a student, to the extent practicable, who is off campus
1167 at the time of a school violence emergency because the student is:

1168 (A) participating in a school-related activity; or

1169 (B) excused from school for a period of time during the regular school day to
1170 participate in religious instruction at the request of the student's parent.

1171 (c) The state board, through the state superintendent, shall develop comprehensive
1172 emergency response plan models that local school boards may use, where appropriate, to
1173 comply with Subsection (18)(a).

1174 (d) A local school board shall, by July 1 of each year, certify to the state board that its
1175 plan has been practiced at the school level and presented to and reviewed by its teachers,
1176 administrators, students, and their parents and local law enforcement and public safety

1177 representatives.

1178 (19) (a) A local school board may adopt an emergency response plan for the treatment
1179 of sports-related injuries that occur during school sports practices and events.

1180 (b) The plan may be implemented by each secondary school in the district that has a
1181 sports program for students.

1182 (c) The plan may:

1183 (i) include emergency personnel, emergency communication, and emergency
1184 equipment components;

1185 (ii) require professional learning on the emergency response plan for school personnel
1186 who are involved in sports programs in the district's secondary schools; and

1187 (iii) provide for coordination with individuals and agency representatives who:

1188 (A) are not employees of the school district; and

1189 (B) would be involved in providing emergency services to students injured while
1190 participating in sports events.

1191 (d) The local school board, in collaboration with the schools referred to in Subsection
1192 (19)(b), may review the plan each year and make revisions when required to improve or
1193 enhance the plan.

1194 (e) The state board, through the state superintendent, shall provide local school boards
1195 with an emergency plan response model that local school boards may use to comply with the
1196 requirements of this Subsection (19).

1197 (20) A local school board shall do all other things necessary for the maintenance,
1198 prosperity, and success of the schools and the promotion of education.

1199 (21) (a) Before closing a school or changing the boundaries of a school, a local school
1200 board shall:

1201 (i) at least 120 days before approving the school closure or school boundary change,
1202 provide notice to the following that the local school board is considering the closure or
1203 boundary change:

1204 (A) parents of students enrolled in the school, using the same form of communication

1205 the local school board regularly uses to communicate with parents;

1206 (B) parents of students enrolled in other schools within the school district that may be
1207 affected by the closure or boundary change, using the same form of communication the local
1208 school board regularly uses to communicate with parents; and

1209 (C) the governing council and the mayor of the municipality in which the school is
1210 located;

1211 (ii) provide an opportunity for public comment on the proposed school closure or
1212 school boundary change during at least two public local school board meetings; and

1213 (iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of
1214 the public hearing as described in Subsection (21)(b).

1215 (b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

1216 (i) indicate the:

1217 (A) school or schools under consideration for closure or boundary change; and

1218 (B) the date, time, and location of the public hearing;

1219 (ii) at least 10 days before the public hearing, be:

1220 (A) published:

1221 (I) in a newspaper of general circulation in the area; and

1222 (II) on the Utah Public Notice Website created in Section 63F-1-701; and

1223 (B) posted in at least three public locations within the municipality in which the school
1224 is located on the school district's official website, and prominently at the school; and

1225 (iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be
1226 provided as described in Subsections (21)(a)(i)(A), (B), and (C).

1227 (22) A local school board may implement a facility energy efficiency program
1228 established under Title 11, Chapter 44, Performance Efficiency Act.

1229 (23) A local school board may establish or partner with a certified youth court
1230 program, in accordance with Section 78A-6-1203, or establish or partner with a comparable
1231 restorative justice program, in coordination with schools in that district. A school may refer a
1232 student to youth court or a comparable restorative justice program in accordance with Section

1233 53G-8-211.

1234 Section 26. Section 53G-8-209 is amended to read:

1235 **53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of**
1236 **violations -- Limitation of liability.**

1237 (1) The Legislature recognizes that:

1238 (a) participation in student government and extracurricular activities may confer
1239 important educational and lifetime benefits upon students, and encourages school districts and
1240 charter schools to provide a variety of opportunities for all students to participate in such
1241 activities in meaningful ways;

1242 (b) there is no constitutional right to participate in these types of activities, and does
1243 not through this section or any other provision of law create such a right;

1244 (c) students who participate in student government and extracurricular activities,
1245 particularly competitive athletics, and the adult coaches, advisors, and assistants who direct
1246 those activities, become role models for others in the school and community;

1247 (d) these individuals often play major roles in establishing standards of acceptable
1248 behavior in the school and community, and establishing and maintaining the reputation of the
1249 school and the level of community confidence and support afforded the school; and

1250 (e) it is of the utmost importance that those involved in student government, whether as
1251 officers or advisors, and those involved in competitive athletics and related activities, whether
1252 students or staff, comply with all applicable laws and standards of behavior and conduct
1253 themselves at all times in a manner befitting their positions and responsibilities.

1254 (2) (a) The state board may, and local school boards and charter school governing
1255 boards shall, adopt rules or policies implementing this section that apply to both students and
1256 staff.

1257 (b) The rules or policies described in Subsection (2)(a) shall include prohibitions
1258 against the following types of conduct in accordance with Section 53G-8-211, while in the
1259 classroom, on school property, during school sponsored activities, or regardless of the location
1260 or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i)

1261 through (iv):

1262 (i) the use of foul, abusive, or profane language while engaged in school related
1263 activities;

1264 (ii) the illicit use, possession, or distribution of:

1265 (A) controlled substances or drug paraphernalia~~[- and the use, possession, or~~
1266 ~~distribution of an electronic cigarette as defined in Section 76-10-101, tobacco, or alcoholic~~
1267 ~~beverages contrary to law]~~;

1268 (B) a tobacco product, an electronic cigarette product, or a nicotine product as those
1269 terms are defined in Section 76-10-101; or

1270 (C) an alcoholic beverage; and

1271 (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including
1272 behavior involving physical violence, restraint, improper touching, or inappropriate exposure
1273 of body parts not normally exposed in public settings, forced ingestion of any substance, or any
1274 act which would constitute a crime against a person or public order under [Utah] state law.

1275 (3) (a) School employees who reasonably believe that a violation of this section may
1276 have occurred shall immediately report that belief to the school principal, district
1277 superintendent, or chief administrative officer of a charter school.

1278 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the
1279 alleged incident, and actions taken in response, to the district superintendent or the
1280 superintendent's designee within 10 working days after receipt of the report.

1281 (c) Failure of a person holding a professional certificate to report as required under this
1282 Subsection (3) constitutes an unprofessional practice.

1283 (4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

1284 Section 27. Section 59-14-102 is amended to read:

1285 **59-14-102. Definitions.**

1286 As used in this chapter:

1287 (1) "Alternative nicotine product" means the same as that term is defined in Section
1288 76-10-101.

1289 ~~[(1)]~~ (2) "Cigarette" means a roll for smoking made wholly or in part of tobacco:

1290 (a) regardless of:

1291 (i) the size of the roll;

1292 (ii) the shape of the roll; or

1293 (iii) whether the tobacco is ~~[(A)]~~ flavored ~~[(B)]~~, adulterated ~~[(C)]~~, or mixed with
1294 any other ingredient; and

1295 (b) if the wrapper or cover of the roll is made of paper or any other substance or
1296 material except tobacco.

1297 ~~[(2)]~~ (3) "Cigarette rolling machine" means a device or machine that has the capability
1298 to produce at least 150 cigarettes in less than 30 minutes.

1299 ~~[(3)]~~ (4) "Cigarette rolling machine operator" means a person who:

1300 (a) (i) controls, leases, owns, possesses, or otherwise has available for use a cigarette
1301 rolling machine; and

1302 (ii) makes the cigarette rolling machine available for use by another person to produce
1303 a cigarette; or

1304 (b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.

1305 ~~[(4)]~~ (5) "Consumer" means a person that is not required:

1306 (a) under Section 59-14-201 to obtain a license under Section 59-14-202; ~~or~~

1307 (b) under Section 59-14-301 to obtain a license under Section 59-14-202 ~~[:];~~ or

1308 (c) to obtain a license under Section 59-14-803.

1309 ~~[(5)]~~ (6) "Counterfeit cigarette" means:

1310 (a) a cigarette that has a false manufacturing label; or

1311 (b) a package of cigarettes bearing a counterfeit tax stamp.

1312 (7) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

1313 (8) "Electronic cigarette product" means the same as that term is defined in Section
1314 76-10-101.

1315 (9) "Electronic cigarette substance" means the same as that term is defined in Section
1316 76-10-101.

1317 ~~[(6)]~~ (10) "Importer" means a person ~~[who]~~ that imports into the United States, either
 1318 directly or indirectly, a finished cigarette for sale or distribution.

1319 ~~[(7)]~~ (11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity,
 1320 or any other person doing business as a distributor or retailer of cigarettes on tribal lands
 1321 located in the state.

1322 ~~[(8)]~~ (12) "Little cigar" means a roll for smoking that:

- 1323 (a) is made wholly or in part of tobacco;
- 1324 (b) ~~[that]~~ uses an integrated cellulose acetate filter or other similar filter; and
- 1325 (c) ~~[that]~~ is wrapped in a substance:
 - 1326 (i) containing tobacco; and
 - 1327 (ii) that is not exclusively natural leaf tobacco.

1328 ~~[(9)]~~ (13) (a) Except as provided in Subsection ~~[(9)]~~ (13)(b), "manufacturer" means a
 1329 person ~~[who]~~ that:

- 1330 (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette[-]; or
- 1331 (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels,
 1332 repackages, relabels, or imports an electronic cigarette product or a nicotine product.

1333 (b) "Manufacturer" does not include a cigarette rolling machine operator.

1334 ~~[(10)]~~ (14) "Moist snuff" means tobacco that:

- 1335 (a) is finely~~[-(i)]~~ cut~~[-(ii)]~~, ground~~[-or-(iii)]~~, or powdered;
- 1336 (b) has at least 45% moisture content, as determined by the commission by rule made
 1337 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 1338 (c) is not intended to be:
 - 1339 (i) smoked; or
 - 1340 (ii) placed in the nasal cavity; and
- 1341 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or
 1342 distributed in single-use units, including:
 - 1343 (i) tablets;
 - 1344 (ii) lozenges;

- 1345 (iii) strips;
- 1346 (iv) sticks; or
- 1347 (v) packages containing multiple single-use units.
- 1348 (15) "Nicotine" means the same as that term is defined in Section 76-10-101.
- 1349 (16) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 1350 (17) "Nontherapeutic nicotine device" means the same as that term is defined in
- 1351 Section 76-10-101.
- 1352 (18) "Nontherapeutic nicotine device substance" means the same as that term is defined
- 1353 in Section 76-10-101.
- 1354 (19) "Nontherapeutic nicotine product" means the same as that term is defined in
- 1355 Section 76-10-101.
- 1356 (20) "Prefilled electronic cigarette" means the same as that term is defined in Section
- 1357 76-10-101.
- 1358 (21) "Prefilled nontherapeutic nicotine device" means the same as that term is defined
- 1359 in Section 76-10-101.
- 1360 [(H)] (22) "Retailer" means a person that:
- 1361 (a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product
- 1362 to a consumer in the state; or
- 1363 (b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine
- 1364 product to a consumer in the state.
- 1365 [(H)] (23) "Stamp" means the indicia required to be placed on a cigarette package that
- 1366 evidences payment of the tax on cigarettes required by Section 59-14-205.
- 1367 [(H)] (24) (a) "Tobacco product" means a product made of, or containing, tobacco.
- 1368 (b) "Tobacco product" includes:
- 1369 (i) a cigarette produced from a cigarette rolling machine;
- 1370 (ii) a little cigar; or
- 1371 (iii) moist snuff.
- 1372 (c) "Tobacco product" does not include a cigarette.

1373 [~~(14)~~] (25) "Tribal lands" means land held by the United States in trust for a federally
1374 recognized Indian tribe.

1375 Section 28. Section **59-14-104** is enacted to read:

1376 **59-14-104. Rate reduction for modified risk tobacco products.**

1377 (1) Beginning July 1, 2021, the tax imposed under this chapter is reduced in
1378 accordance with Subsection (2):

1379 (a) on the first day of a calendar quarter; and

1380 (b) after a 90-day period beginning on the day on which the commission receives a
1381 notice from the manufacturer of a product that has received a modified risk tobacco product
1382 order from the United States Food and Drug Administration.

1383 (2) The tax imposed under this chapter is reduced by:

1384 (a) 50% for any product that is issued a modified risk tobacco product order under 21
1385 U.S.C. Sec. 387k(g)(1); and

1386 (b) 25% for any product that is issued a modified risk tobacco product order under 21
1387 U.S.C. Sec. 387k(g)(2).

1388 Section 29. Section **59-14-302** is amended to read:

1389 **59-14-302. Tax basis -- Rates.**

1390 (1) As used in this section:

1391 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco
1392 product charges after subtracting a discount.

1393 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,
1394 regardless of:

1395 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

1396 (ii) who pays the original Utah destination freight charge.

1397 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

1398 (3) (a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid
1399 by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

1400 (b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling

1401 machine shall be paid by the cigarette rolling machine operator.

1402 (4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced
1403 from a cigarette rolling machine, the ~~[rate]~~ amount of the tax under this section is .86
1404 multiplied by the manufacturer's sales price.

1405 (5) (a) Subject to Subsection (5)(b), the tax under this section on moist snuff is
1406 imposed:

- 1407 (i) at a rate of \$1.83 per ounce; and
- 1408 (ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.

1409 (b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce,
1410 a proportionate amount of the tax described in Subsection (5)(a) is imposed:

- 1411 (i) on that fractional part of one ounce; and
- 1412 (ii) in accordance with rules made by the commission in accordance with Title 63G,
1413 Chapter 3, Utah Administrative Rulemaking Act.

1414 (6) (a) A little cigar is taxed at the same tax rates as a cigarette is taxed under
1415 Subsection [59-14-204\(2\)](#).

1416 (b) (i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling
1417 machine is taxed at the same tax rates as a cigarette is taxed under Subsection [59-14-204\(2\)](#).

1418 (ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced
1419 from the cigarette rolling machine.

1420 (7) (a) Moisture content of a tobacco product is determined at the time of packaging.

1421 (b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

1422 (i) for a period of three years after the last day on which the manufacturer distributes
1423 the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of
1424 the tobacco product available for review by the commission, upon demand; and

1425 (ii) provide a document, to the person described in Subsection (3) to whom the
1426 manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco
1427 product, as verified by the scientific evidence described in Subsection (7)(b)(i).

1428 (c) A manufacturer who fails to comply with the requirements of Subsection (7)(b) is

1429 liable for the nonpayment or underpayment of taxes on the tobacco product by a person who
1430 relies, in good faith, on the document described in Subsection (7)(b)(ii).

1431 (d) A person described in Subsection (3) who is required to pay tax on a tobacco
1432 product:

1433 (i) shall, for a period of three years after the last day on which the person pays the tax
1434 on the tobacco product, keep the document described in Subsection (7)(b)(ii) available for
1435 review by the commission, upon demand; and

1436 (ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due
1437 to the person's good faith reliance on the document described in Subsection (7)(b)(ii).

1438 Section 30. Section **59-14-703 (Effective 07/01/20)** is amended to read:

1439 **59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine**
1440 **operators -- Renewal of certification -- Requirements for certification or renewal of**
1441 **certification -- Denial.**

1442 (1) A cigarette rolling machine operator may not perform the following without first
1443 obtaining certification from the commission as provided in this part:

1444 (a) locate a cigarette rolling machine within this state;

1445 (b) make or offer to make a cigarette rolling machine available for use within this state;

1446 or

1447 (c) offer a cigarette for sale within this state if the cigarette is produced by:

1448 (i) the cigarette rolling machine operator; or

1449 (ii) another person at the location of the cigarette rolling machine operator's cigarette
1450 rolling machine.

1451 (2) A cigarette rolling machine operator shall renew its certification as provided in this
1452 section.

1453 (3) The commission shall prescribe a form for certifying a cigarette rolling machine
1454 operator under this part.

1455 (4) (a) A cigarette rolling machine operator shall apply to the commission for
1456 certification before the cigarette rolling machine operator performs an act described in

1457 Subsection (1) within the state for the first time.

1458 (b) A cigarette rolling machine operator shall apply to the commission for a renewal of
1459 certification on or before the earlier of:

1460 (i) December 31 of each year; or

1461 (ii) the day on which there is a change in any of the information the cigarette rolling
1462 machine operator provides on the form described in Subsection (3).

1463 (5) To obtain certification or renewal of certification under this section from the
1464 commission, a cigarette rolling machine operator shall:

1465 (a) identify:

1466 (i) the cigarette rolling machine operator's name and address;

1467 (ii) the location, make, and brand of the cigarette rolling machine operator's cigarette
1468 rolling machine; and

1469 (iii) each person from whom the cigarette rolling machine operator will purchase or be
1470 provided tobacco products that the cigarette rolling machine operator will use to produce
1471 cigarettes; and

1472 (b) certify, under penalty of perjury, that:

1473 (i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling
1474 machine, regardless of the tobacco's label or description, shall be only of a:

1475 (A) brand family listed on the commission's directory listing required by Section
1476 [59-14-603](#); and

1477 (B) tobacco product manufacturer listed on the commission's directory listing required
1478 by Section [59-14-603](#);

1479 (ii) the cigarette rolling machine operator shall prohibit another person who uses the
1480 cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or
1481 a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette
1482 rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);

1483 (iii) the cigarette rolling machine operator holds a current license issued in accordance
1484 with this chapter;

1485 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title
1486 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection
1487 Act;

1488 (v) the cigarette rolling machine shall be located in a separate and defined area where
1489 the cigarette rolling machine operator ensures that an individual younger than [~~the age specified~~
1490 ~~in Subsection (6)~~] 21 years old may not be:

1491 (A) present at any time; or

1492 (B) permitted to enter at any time; and

1493 (vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer,
1494 or sell cigarettes produced from a cigarette rolling machine in a quantity of less than 20
1495 cigarettes per retail transaction.

1496 [~~(6) For purposes of Subsection (5), an individual is younger than:~~]

1497 [~~(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1498 [~~(b) beginning July 1, 2021, 21 years old.]~~

1499 [(7)] (6) If the commission determines that a cigarette rolling machine operator meets
1500 the requirements for certification or renewal of certification under this section, the commission
1501 shall grant the certification or renewal of certification.

1502 [(8)] (7) If the commission determines that a cigarette rolling machine operator does
1503 not meet the requirements for certification or renewal of certification under this section, the
1504 commission shall:

1505 (a) deny the certification or renewal of certification; and

1506 (b) provide the cigarette rolling machine operator the grounds for denial of the
1507 certification or renewal of certification in writing.

1508 Section 31. Section **59-14-801** is amended to read:

1509 **Part 8. Electronic Cigarette and Nicotine Product Licensing and Taxation Act**

1510 **59-14-801. Title.**

1511 This part is known as the "Electronic Cigarette Product and Nicotine Product Licensing
1512 and Taxation Act."

1513 Section 32. Section **59-14-802** is amended to read:

1514 **59-14-802. Definitions.**

1515 As used in this part:

1516 [~~(1) "Cigarette" means the same as that term is defined in Section 59-14-102.~~]

1517 [~~(2) (a) "Electronic cigarette" means:~~]

1518 [~~(i) an electronic device used to deliver or capable of delivering vapor containing~~
1519 ~~nicotine to an individual's respiratory system;~~]

1520 [~~(ii) a component of the device described in Subsection (2)(a)(i); or~~]

1521 [~~(iii) an accessory sold in the same package as the device described in Subsection~~
1522 ~~(2)(a)(i).~~]

1523 [~~(b) "Electronic cigarette" includes an e-cigarette as defined in Section 26-38-2.~~]

1524 [~~(3) "Electronic cigarette product" means an electronic cigarette or an electronic~~
1525 ~~cigarette substance.~~]

1526 [~~(4) "Electronic cigarette substance" means any substance, including liquid containing~~
1527 ~~nicotine, used or intended for use in an electronic cigarette.~~]

1528 [~~(5)~~] (1) "Licensee" means a person that holds a valid license to sell an electronic
1529 cigarette [~~products~~] product or a nicotine product.

1530 [~~(6) "License to sell an electronic cigarette product" means a license issued by the~~
1531 ~~commission under Subsection 59-14-803(3).~~]

1532 (2) (a) "Manufacturer's sales price" means the amount that the manufacturer of an
1533 electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a
1534 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device charges
1535 after subtracting a discount.

1536 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,
1537 regardless of:

1538 (i) whether the electronic cigarette substance, prefilled electronic cigarette, alternative
1539 nicotine product, nontherapeutic nicotine device substance, or prefilled nontherapeutic nicotine
1540 device is shipped f.o.b. origin or f.o.b. destination; or

1541 (ii) who pays the original Utah destination freight charge.

1542 Section 33. Section **59-14-803** is amended to read:

1543 **59-14-803. License to sell electronic cigarette product or nicotine product.**

1544 (1) [~~Except as provided in Subsection (2), a~~] A person may not sell, offer to sell, or
1545 distribute an electronic cigarette product [~~in Utah~~] or a nicotine product in this state without
1546 first:

1547 (a) except as provided in Subsection (2), obtaining a license from the commission
1548 under this section to sell an electronic cigarette product [~~from the commission under this~~
1549 ~~section.~~] or a nicotine product; and

1550 (b) complying with any bonding requirement described in Subsection (5).

1551 (2) A person that holds a valid license to sell cigarettes under Section 59-14-201~~;~~ or a
1552 person that holds a valid license to sell tobacco products under Section 59-14-301~~;~~ may,
1553 without obtaining a separate license [~~to sell an electronic cigarette product under this part,~~] in
1554 accordance with this section, sell, offer to sell, or distribute an electronic cigarette product [~~in~~
1555 ~~Utah in accordance with this part~~] or a nicotine product in this state.

1556 (3) The commission shall issue a license to sell an electronic cigarette product or a
1557 nicotine product to a person that submits an application, on a form created by the commission,
1558 that includes:

1559 (a) the person's name;

1560 (b) the address of the facility where the person will sell an electronic cigarette product
1561 or a nicotine product; and

1562 (c) any other information the commission requires to implement this chapter.

1563 (4) A license described in Subsection (3) is:

1564 (a) valid only at one fixed business address;

1565 (b) valid for three years;

1566 (c) valid only for a physical location; and

1567 (d) renewable if a licensee meets the criteria for licensing described in Subsection (3).

1568 (5) (a) The commission shall require a manufacturer, jobber, distributor, wholesaler, or

1569 retailer that is responsible under this part for the collection of tax on an electronic cigarette
1570 substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic
1571 nicotine device substance, or a prefilled nontherapeutic nicotine device to post a bond.

1572 (b) The manufacturer, jobber, distributor, wholesaler, or retailer may post the bond
1573 required by Subsection (5)(a) in combination with any bond required by Section [59-14-201](#) or
1574 [59-14-301](#).

1575 (c) Subject to Subsection (5)(d), the commission shall determine the form and amount
1576 of the bond.

1577 (d) The minimum amount of the bond shall be:

1578 (i) except as provided in Subsection (5)(d)(ii) or (iii), \$500;

1579 (ii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond
1580 required by Subsection (5)(a) in combination with a bond required by either Section [59-14-201](#)
1581 or [59-14-301](#), \$1,000; or

1582 (iii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond
1583 required by Subsection (5)(a) in combination with a bond required by both Sections [59-14-201](#)
1584 and [59-14-301](#), \$1,500.

1585 [~~5~~] (6) The commission may make rules in accordance with Title 63G, Chapter 3,
1586 Utah Administrative Rulemaking Act, to establish the additional information described in
1587 Subsection (3)(c) that a person [~~must~~] shall provide in the application described in Subsection
1588 (3).

1589 [~~6~~] (7) It is a class B misdemeanor for a person to violate Subsection (1).

1590 [~~7~~] (8) The commission may not charge a fee for a license under this section.

1591 Section 34. Section **59-14-804** is enacted to read:

1592 **59-14-804. Taxation of electronic cigarette substance, prefilled electronic**
1593 **cigarette, alternative nicotine product, nontherapeutic nicotine device substance, and**
1594 **prefilled nontherapeutic nicotine device.**

1595 (1) (a) Beginning on July 1, 2020, a tax is imposed upon the following:

1596 (i) an electronic cigarette substance; and

- 1597 (ii) a prefilled electronic cigarette.
- 1598 (b) Beginning on July 1, 2021, a tax is imposed upon the following:
- 1599 (i) a nontherapeutic nicotine device substance; and
- 1600 (ii) a prefilled nontherapeutic nicotine device.
- 1601 (c) Beginning on July 1, 2021, a tax is imposed upon an alternative nicotine product.
- 1602 (2) (a) The amount of tax imposed under Subsections (1)(a) and (b) is .56 multiplied by
- 1603 the manufacturer's sales price.
- 1604 (b) (i) The tax under Subsection (1)(c) on an alternative nicotine product is imposed:
- 1605 (A) at a rate of \$1.83 per ounce; and
- 1606 (B) on the basis of the net weight of the alternative nicotine product as listed by the
- 1607 manufacturer.
- 1608 (ii) If the net weight of the alternative nicotine product is in a quantity that is a
- 1609 fractional part of one ounce, a proportionate amount of the tax described in Subsection
- 1610 (2)(b)(i)(A) is imposed:
- 1611 (A) on that fractional part of one ounce; and
- 1612 (B) in accordance with rules made by the commission in accordance with Title 63G,
- 1613 Chapter 3, Utah Administrative Rulemaking Act.
- 1614 (3) If a product is sold in the same package as a product that is taxed under Subsection
- 1615 (1), the tax described in Subsection (2) shall apply to the wholesale manufacturer's sale price of
- 1616 the entire packaged product.
- 1617 (4) (a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall
- 1618 pay the tax levied under Subsection (1) at the time that an electronic cigarette substance, a
- 1619 prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device
- 1620 substance, or a prefilled nontherapeutic nicotine device is first received in the state.
- 1621 (b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not
- 1622 resell an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine
- 1623 product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine
- 1624 device to another distributor, another retailer, or a consumer before paying the tax levied under

1625 Subsection (1).

1626 (5) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user
1627 shall remit the taxes collected in accordance with this section to the commission.

1628 (b) The commission shall deposit revenues generated by the tax imposed by this
1629 section into the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account
1630 created in Section [59-14-807](#).

1631 Section 35. Section **59-14-805** is enacted to read:

1632 **59-14-805. Remittance of tax -- Returns -- Invoice required -- Filing requirement--**
1633 **Exception -- Penalty -- Overpayment.**

1634 (1) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user
1635 that collects the tax imposed on an electronic cigarette substance, a prefilled electronic
1636 cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a
1637 prefilled nontherapeutic nicotine device shall remit to the commission, in an electronic format
1638 approved by the commission:

1639 (i) the tax collected in the previous calendar quarter; and

1640 (ii) the quarterly tax return.

1641 (b) The tax collected and the return are due on or before the last day of April, July,
1642 October, and January.

1643 (2) (a) A manufacturer, jobber, distributor, wholesaler, retailer, or any other person
1644 selling an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine
1645 product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine
1646 device to a person other than the ultimate consumer shall furnish the purchaser with an
1647 itemized invoice showing:

1648 (i) the seller's name and address;

1649 (ii) the name and address of the purchaser;

1650 (iii) the date of sale;

1651 (iv) the name and price of the product; and

1652 (v) the discount, if any.

1653 (b) The invoice shall show whether the price includes the tax.

1654 (c) The seller and the purchaser shall retain copies of the invoice and make the invoice
1655 available for inspection at the request of the commission or the commission's agent for a period
1656 of three years following the sale.

1657 (3) (a) A consumer that purchases an untaxed electronic cigarette substance, prefilled
1658 electronic cigarette, alternative nicotine product, nontherapeutic nicotine device substance, or
1659 prefilled nontherapeutic nicotine device for use or other consumption shall:

1660 (i) file with the commission, on forms prescribed by the commission, a statement
1661 showing the quantity and description of the item subject to tax under this part; and

1662 (ii) pay the tax imposed by this part on that item.

1663 (b) The consumer shall file the statement described in Subsection (3)(a) and pay the tax
1664 due on or before the last day of the month immediately following the month during which the
1665 consumer purchased an untaxed electronic cigarette substance, prefilled electronic cigarette,
1666 alternative nicotine device substance, nontherapeutic nicotine product, or prefilled
1667 nontherapeutic nicotine device.

1668 (c) A consumer shall maintain records necessary to determine the amount of tax the
1669 consumer is liable to pay under this part for a period of three years following the date on which
1670 the statement required by this section was filed.

1671 (4) A tourist who imports an untaxed electronic cigarette substance, a prefilled
1672 electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance,
1673 or a prefilled nontherapeutic nicotine device into the state does not need to file the statement
1674 described in Subsection (3) or pay the tax if the item is for the tourist's own use or consumption
1675 while in this state.

1676 (5) In addition to the tax required by this part, a person shall pay a penalty as provided
1677 in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402,
1678 if a person subject to this section fails to:

1679 (a) pay the tax prescribed by this part;

1680 (b) pay the tax on time; or

1681 (c) file a return required by this part.

1682 (6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in
1683 the manner prescribed in Section 59-1-402.

1684 Section 36. Section 59-14-806 is enacted to read:

1685 **59-14-806. Refund of taxes paid -- Exemption for exported electronic cigarettes**
1686 **and nicotine products.**

1687 (1) When an electronic cigarette substance, a prefilled electronic cigarette, an
1688 alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled
1689 nontherapeutic nicotine device taxed under this chapter is sold and shipped to a regular dealer
1690 in those articles in another state, the seller in this state shall be entitled to a refund of the actual
1691 amount of the taxes paid, upon condition that the seller in this state:

1692 (a) is a licensed dealer;

1693 (b) signs an affidavit that the electronic cigarette substance, the prefilled electronic
1694 cigarette, the alternative nicotine product, the nontherapeutic nicotine device substance, or the
1695 prefilled nontherapeutic nicotine device was sold and shipped to a regular dealer in those
1696 articles in another state;

1697 (c) furnishes, from the purchaser, a written acknowledgment that the purchaser has
1698 received the electronic cigarette substance, the prefilled electronic cigarette, the alternative
1699 nicotine product, the nontherapeutic nicotine device substance, or the prefilled nontherapeutic
1700 nicotine device; and

1701 (d) reports the name and address of the purchaser.

1702 (2) A wholesaler or distributor in this state that exports an electronic cigarette
1703 substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic
1704 nicotine device substance, or a prefilled nontherapeutic nicotine device to a regular dealer in
1705 those articles in another state shall be exempt from the payment of any tax under this chapter
1706 upon furnishing proof of the sale and exportation as the commission may require.

1707 Section 37. Section 59-14-807 is enacted to read:

1708 **59-14-807. Electronic Cigarette Substance and Nicotine Product Tax Restricted**

1709 **Account.**

1710 (1) There is created within the General Fund a restricted account known as the
1711 "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

1712 (2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account
1713 consists of:

1714 (a) revenues collected from the tax imposed by Section 59-14-804; and

1715 (b) amounts appropriated by the Legislature.

1716 (3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation
1717 by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette
1718 Substance and Nicotine Product Tax Restricted Account:

1719 (a) \$2,000,000 which shall be allocated to the local health departments by the
1720 Department of Health using the formula created in accordance with Section 26A-1-116;

1721 (b) \$2,000,000 to the Department of Health for statewide cessation programs and
1722 prevention education;

1723 (c) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed
1724 at disrupting organizations and networks that provide tobacco products, electronic cigarette
1725 products, nicotine products, and other illegal controlled substances to minors; and

1726 (d) \$3,000,000 which shall be allocated to the local health departments by the
1727 Department of Health using the formula created in accordance with Section 26A-1-116.

1728 (4) (a) The local health departments shall use the money received in accordance with
1729 Subsection (3)(a) for enforcing:

1730 (i) the regulation provisions described in Section 26-57-103;

1731 (ii) the labeling requirement described in Section 26-57-104; and

1732 (iii) the penalty provisions described in Section 26-62-305.

1733 (b) The Department of Health shall use the money received in accordance with
1734 Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention
1735 Program created in Section 26-7-10.

1736 (c) The local health department shall use the money received in accordance with

1737 Subsection (3)(d) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug
1738 Prevention Grant Program created in Section [26A-1-129](#).

1739 (5) (a) The fund shall earn interest.

1740 (b) All interest earned on fund money shall be deposited into the fund.

1741 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette
1742 Substance and Nicotine Product Tax Restricted Account after the distribution described in
1743 Subsection (3) may only be used for programs and activities related to the prevention and
1744 cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

1745 Section 38. Section **59-14-808** is enacted to read:

1746 **59-14-808. Restrictions on mail order or Internet sales.**

1747 (1) For purposes of this section:

1748 (a) "Distributor" means a person, wherever residing or located, who:

1749 (i) is licensed in this state to purchase a non-taxed nicotine product or a non-taxed
1750 electronic cigarette product; and

1751 (ii) stores, sells, or otherwise disposes of a nicotine product or an electronic cigarette
1752 product.

1753 (b) "Licensed person" means the same as that term is defined in Section [59-14-409](#).

1754 (c) "Order or purchase" includes:

1755 (i) by mail or delivery service;

1756 (ii) through the Internet or computer network;

1757 (iii) by telephone; or

1758 (iv) through some other electronic method.

1759 (d) "Retailer" means any person who sells a nicotine product or an electronic cigarette
1760 product to consumers for personal consumption.

1761 (2) A person, distributor, manufacturer, or retailer shall not:

1762 (a) cause a nicotine product or an electronic cigarette product to be ordered or
1763 purchased by anyone other than a licensed person; or

1764 (b) knowingly provide substantial assistance to a person who violates this section.

1765 (3) (a) Each order or purchase of a nicotine product or an electronic cigarette product in
 1766 violation of Subsection (2) constitutes a separate violation under this section.

1767 (b) In addition to the penalties in Subsection (4), a person who violates this section is
 1768 subject to:

1769 (i) a civil penalty in an amount not to exceed \$5,000 for each violation of this section;

1770 (ii) an injunction to restrain a threatened or actual violation of this section; and

1771 (iii) recovery by the state for:

1772 (A) the costs of investigation;

1773 (B) the cost of expert witness fees;

1774 (C) the cost of the action; and

1775 (D) reasonable attorney's fees.

1776 (4) A person who knowingly violates this section has engaged in an unfair and
 1777 deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act, and the court
 1778 shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged
 1779 and paid to the state treasurer for deposit in the General Fund.

1780 Section 39. Section **63I-1-226** is amended to read:

1781 **63I-1-226. Repeal dates, Title 26.**

1782 (1) Section **26-1-40** is repealed July 1, 2022.

1783 (2) Section **26-7-10** is repealed July 1, 2025.

1784 [~~2~~] (3) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed
 1785 July 1, 2025.

1786 [~~3~~] (4) Section **26-10-11** is repealed July 1, 2020.

1787 [~~4~~] (5) Subsection **26-18-417(3)** is repealed July 1, 2020.

1788 [~~5~~] (6) Subsection **26-18-418(2)**, the language that states "and the Mental Health
 1789 Crisis Line Commission created in Section **63C-18-202**" is repealed July 1, 2023.

1790 [~~6~~ Section **26-18-419.1** is repealed December 31, 2019.]

1791 (7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

1792 (8) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

1793 (9) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed
1794 July 1, 2024.

1795 (10) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

1796 (11) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
1797 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.

1798 (12) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative
1799 Liaison Committee, is repealed July 1, 2022.

1800 (13) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed
1801 July 1, 2026.

1802 Section 40. Section 76-8-311.3 is amended to read:

1803 **76-8-311.3. Items prohibited in correctional and mental health facilities --**
1804 **Penalties.**

1805 (1) As used in this section:

1806 (a) "Contraband" means any item not specifically prohibited for possession by
1807 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

1808 (b) "Controlled substance" means any substance defined as a controlled substance
1809 under Title 58, Chapter 37, Utah Controlled Substances Act.

1810 (c) "Correctional facility" means:

1811 (i) any facility operated by or contracting with the Department of Corrections to house
1812 offenders in either a secure or nonsecure setting;

1813 (ii) any facility operated by a municipality or a county to house or detain criminal
1814 offenders;

1815 (iii) any juvenile detention facility; and

1816 (iv) any building or grounds appurtenant to the facility or lands granted to the state,
1817 municipality, or county for use as a correctional facility.

1818 (d) "Electronic cigarette product" [~~is as~~] means the same as that term is defined in
1819 Section 76-10-101.

1820 (e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b,

1821 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,
1822 Chapter 37, Utah Controlled Substances Act.

1823 (f) "Mental health facility" [~~is as~~] means the same as that term is defined in Section
1824 62A-15-602.

1825 (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

1826 [~~g~~] (h) "Offender" means a person in custody at a correctional facility.

1827 [~~h~~] (i) "Secure area" [~~is as~~] means the same as that term is defined in Section
1828 76-8-311.1.

1829 (j) "Tobacco product" means the same as that term is defined in Section 76-10-101.

1830 (2) Notwithstanding Section 76-10-500, a correctional or mental health facility may
1831 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,
1832 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any
1833 quantity may be:

1834 (a) transported to or upon a correctional or mental health facility;

1835 (b) sold or given away at any correctional or mental health facility;

1836 (c) given to or used by any offender at a correctional or mental health facility; or

1837 (d) knowingly or intentionally possessed at a correctional or mental health facility.

1838 (3) It is a defense to any prosecution under this section if the accused in committing the
1839 act made criminal by this section with respect to:

1840 (a) a correctional facility operated by the Department of Corrections, acted in
1841 conformity with departmental rule or policy;

1842 (b) a correctional facility operated by a municipality, acted in conformity with the
1843 policy of the municipality;

1844 (c) a correctional facility operated by a county, acted in conformity with the policy of
1845 the county; or

1846 (d) a mental health facility, acted in conformity with the policy of the mental health
1847 facility.

1848 (4) (a) Any [~~person~~] individual who transports to or upon a correctional facility, or into

1849 a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or
1850 implement of escape with intent to provide or sell it to any offender, is guilty of a second
1851 degree felony.

1852 (b) Any [~~person~~] individual who provides or sells to any offender at a correctional
1853 facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition,
1854 dangerous weapon, or implement of escape is guilty of a second degree felony.

1855 (c) Any offender who possesses at a correctional facility, or any detainee who
1856 possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous
1857 weapon, or implement of escape is guilty of a second degree felony.

1858 (d) Any [~~person~~] individual who, without the permission of the authority operating the
1859 correctional facility or the secure area of a mental health facility, knowingly possesses at a
1860 correctional facility or a secure area of a mental health facility any firearm, ammunition,
1861 dangerous weapon, or implement of escape is guilty of a third degree felony.

1862 (e) Any [~~person~~] individual violates Section 76-10-306 who knowingly or intentionally
1863 transports, possesses, distributes, or sells any explosive in a correctional facility or mental
1864 health facility.

1865 (5) (a) [~~A person~~] An individual is guilty of a third degree felony who, without the
1866 permission of the authority operating the correctional facility or secure area of a mental health
1867 facility, knowingly transports to or upon a correctional facility or into a secure area of a mental
1868 health facility any:

1869 (i) spirituous or fermented liquor;

1870 (ii) medicine, whether or not lawfully prescribed for the offender; or

1871 (iii) poison in any quantity.

1872 (b) [~~A person~~] An individual is guilty of a third degree felony who knowingly violates
1873 correctional or mental health facility policy or rule by providing or selling to any offender at a
1874 correctional facility or detainee within a secure area of a mental health facility any:

1875 (i) spirituous or fermented liquor;

1876 (ii) medicine, whether or not lawfully prescribed for the offender; or

1877 (iii) poison in any quantity.

1878 (c) An inmate is guilty of a third degree felony who, in violation of correctional or
1879 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a
1880 mental health facility any:

1881 (i) spirituous or fermented liquor;

1882 (ii) medicine, other than medicine provided by the facility's health care providers in
1883 compliance with facility policy; or

1884 (iii) poison in any quantity.

1885 (d) [~~A person~~] An individual is guilty of a class A misdemeanor who, with the intent to
1886 directly or indirectly provide or sell any tobacco product [~~or~~], electronic cigarette product, or
1887 nicotine product to an offender, directly or indirectly:

1888 (i) transports, delivers, or distributes any tobacco product [~~or~~], electronic cigarette
1889 product, or nicotine product to an offender or on the grounds of any correctional facility;

1890 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another
1891 person to transport any tobacco product [~~or~~], electronic cigarette product, or nicotine product to
1892 an offender or on any correctional facility, if the person is acting with the mental state required
1893 for the commission of an offense; or

1894 (iii) facilitates, arranges, or causes the transport of any tobacco product [~~or~~], electronic
1895 cigarette product, or nicotine product in violation of this section to an offender or on the
1896 grounds of any correctional facility.

1897 (e) [~~A person~~] An individual is guilty of a class A misdemeanor who, without the
1898 permission of the authority operating the correctional or mental health facility, fails to declare
1899 or knowingly possesses at a correctional facility or in a secure area of a mental health facility
1900 any:

1901 (i) spirituous or fermented liquor;

1902 (ii) medicine; or

1903 (iii) poison in any quantity.

1904 (f) (i) [~~A person~~] Except as provided in Subsection (5)(f)(ii), an individual is guilty of a

1905 class B misdemeanor who, without the permission of the authority operating the correctional
1906 facility, knowingly engages in any activity that would facilitate the possession of any
1907 contraband by an offender in a correctional facility.

1908 (ii) The provisions of Subsection (5)(d) regarding any tobacco product [or], electronic
1909 cigarette product, or nicotine product take precedence over this Subsection (5)(f).

1910 (g) Exemptions may be granted for worship for Native American inmates pursuant to
1911 Section 64-13-40.

1912 (6) The possession, distribution, or use of a controlled substance at a correctional
1913 facility or in a secure area of a mental health facility shall be prosecuted in accordance with
1914 Title 58, Chapter 37, Utah Controlled Substances Act.

1915 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative
1916 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing
1917 any tobacco product [or], electronic cigarette product, or nicotine product to offenders is a class
1918 A misdemeanor.

1919 Section 41. Section 76-10-101 is amended to read:

1920 **76-10-101. Definitions.**

1921 As used in this part:

1922 (1) (a) "Alternative nicotine product" means a product, other than a cigarette, a
1923 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a
1924 tobacco product, that:

1925 (i) contains nicotine;

1926 (ii) is intended for human consumption;

1927 (iii) is not purchased with a prescription from a licensed physician; and

1928 (iv) is not approved by the United States Food and Drug Administration as nicotine
1929 replacement therapy.

1930 (b) "Alternative nicotine product" includes:

1931 (i) pure nicotine;

1932 (ii) snortable nicotine;

1933 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and

1934 (iv) nicotine-laced food and beverage.

1935 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that
1936 contains naturally occurring nicotine.

1937 ~~[(+)]~~ (2) "Cigar" means a product that contains nicotine, is intended to be burned under
1938 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in
1939 any substance containing tobacco, other than any roll of tobacco that is a cigarette [as described
1940 in Subsection (2)].

1941 ~~[(2)]~~ (3) "Cigarette" means a product that contains nicotine, is intended to be burned
1942 under ordinary conditions of use, and consists of:

1943 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

1944 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
1945 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to
1946 be offered to, or purchased by, consumers as a cigarette described in Subsection [(2)] (3)(a).

1947 ~~[(3) "Electronic cigarette" means an electronic cigarette product, as defined in Section~~
1948 ~~59-14-802:]~~

1949 (4) (a) "Electronic cigarette" means:

1950 (i) any electronic oral device:

1951 (A) that provides an aerosol or a vapor of nicotine or other substance; and

1952 (B) which simulates smoking through the use or inhalation of the device;

1953 (ii) a component of the device described in Subsection (4)(a)(i); or

1954 (iii) an accessory sold in the same package as the device described in Subsection
1955 (4)(a)(i).

1956 (b) "Electronic cigarette" includes an oral device that is:

1957 (i) composed of a heating element, battery, or electronic circuit; and

1958 (ii) marketed, manufactured, distributed, or sold as:

1959 (A) an e-cigarette;

1960 (B) an e-cigar;

- 1961 (C) an e-pipe; or
- 1962 (D) any other product name or descriptor, if the function of the product meets the
- 1963 definition of Subsection (4)(a).
- 1964 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
- 1965 substance, or a prefilled electronic cigarette.
- 1966 (6) "Electronic cigarette substance" means any substance, including liquid containing
- 1967 nicotine, used or intended for use in an electronic cigarette.
- 1968 (7) "Nicotine" means a poisonous, nitrogen containing chemical that is made
- 1969 synthetically or derived from tobacco or other plants.
- 1970 (8) "Nicotine product" means an alternative nicotine product or a nontherapeutic
- 1971 nicotine product.
- 1972 (9) (a) "Nontherapeutic nicotine device" means a device that:
- 1973 (i) has a pressurized canister that is used to administer nicotine to the user through
- 1974 inhalation or intranasally;
- 1975 (ii) is not purchased with a prescription from a licensed physician; and
- 1976 (iii) is not approved by the United States Food and Drug Administration as nicotine
- 1977 replacement therapy.
- 1978 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a
- 1979 nontherapeutic nicotine nasal spray.
- 1980 (10) "Nontherapeutic nicotine device substance" means a substance that:
- 1981 (a) contains nicotine;
- 1982 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
- 1983 (c) is not purchased with a prescription from a licensed physician; and
- 1984 (d) is not approved by the United States Food and Drug Administration as nicotine
- 1985 replacement therapy.
- 1986 (11) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a
- 1987 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.
- 1988 [~~4~~] (12) "Place of business" includes:

- 1989 (a) a shop;
- 1990 (b) a store;
- 1991 (c) a factory;
- 1992 (d) a public garage;
- 1993 (e) an office;
- 1994 (f) a theater;
- 1995 (g) a recreation hall;
- 1996 (h) a dance hall;
- 1997 (i) a poolroom;
- 1998 (j) a café;
- 1999 (k) a cafeteria;
- 2000 (l) a cabaret;
- 2001 (m) a restaurant;
- 2002 (n) a hotel;
- 2003 (o) a lodging house;
- 2004 (p) a streetcar;
- 2005 (q) a bus;
- 2006 (r) an interurban or railway passenger coach;
- 2007 (s) a waiting room; and
- 2008 (t) any other place of business.
- 2009 (13) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled
- 2010 with an electronic cigarette substance.
- 2011 (14) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device
- 2012 that is sold prefilled with a nontherapeutic nicotine device substance.
- 2013 (15) "Retail tobacco specialty business" means the same as that term is defined in
- 2014 Section [26-62-102](#).
- 2015 [~~5~~] (16) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
- 2016 lighted smoking equipment.

2017 (17) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind
2018 that is used, intended for use, or designed for use to package, repack, store, contain,
2019 conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette
2020 substance, or a nontherapeutic nicotine device substance into the human body.

2021 (b) "Tobacco paraphernalia" includes:

2022 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
2023 screens, permanent screens, hashish heads, or punctured metal bowls;

2024 (ii) water pipes;

2025 (iii) carburetion tubes and devices;

2026 (iv) smoking and carburetion masks;

2027 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that
2028 has become too small or too short to be held in the hand;

2029 (vi) chamber pipes;

2030 (vii) carburetor pipes;

2031 (viii) electric pipes;

2032 (ix) air-driven pipes;

2033 (x) chillums;

2034 (xi) bongs; and

2035 (xii) ice pipes or chillers.

2036 (c) "Tobacco paraphernalia" does not include matches or lighters.

2037 (18) "Tobacco product" means:

2038 (a) a cigar;

2039 (b) a cigarette; or

2040 (c) tobacco in any form, including:

2041 (i) chewing tobacco; and

2042 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

2043 (19) "Tobacco retailer" means:

2044 (a) a general tobacco retailer, as that term is defined in Section [26-62-102](#); or

2045 (b) a retail tobacco specialty business.

2046 Section 42. Section **76-10-103 (Effective 07/01/20)** is amended to read:

2047 **76-10-103 (Effective 07/01/20). Permitting minors to use tobacco products,**
2048 **electronic cigarette products, or nicotine products in place of business.**

2049 It is a class C misdemeanor for the proprietor of any place of business to knowingly
2050 permit an individual under [~~the following ages~~] 21 years old to frequent a place of business
2051 while the individual is using [~~tobacco~~] a tobacco product, an electronic cigarette product, or a
2052 nicotine product.

2053 [~~(1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

2054 [~~(2) beginning July 1, 2021, under 21 years old.]~~

2055 Section 43. Section **76-10-104 (Effective 07/01/20)** is amended to read:

2056 **76-10-104 (Effective 07/01/20). Providing a cigar, a cigarette, an electronic**
2057 **cigarette product, a nicotine product, or tobacco to a minor -- Penalties.**

2058 [~~(1) A person violates this section who knowingly, intentionally, recklessly, or with~~
2059 ~~criminal negligence provides a cigar, cigarette, electronic cigarette, or tobacco in any form, to~~
2060 ~~an individual under the following ages, is guilty of a class C misdemeanor on the first offense,~~
2061 ~~a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent~~
2062 ~~offenses.]~~

2063 [~~(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

2064 [~~(b) beginning July 1, 2021, 21 years old.]~~

2065 [~~(2)~~] (1) As used in this section "provides":

2066 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

2067 (b) does not include the acts of the United States Postal Service or other common
2068 carrier when engaged in the business of transporting and delivering packages for others or the
2069 acts of a person, whether compensated or not, who transports or delivers a package for another
2070 person without any reason to know of the package's content.

2071 (2) An individual who knowingly, intentionally, recklessly, or with criminal negligence
2072 provides a tobacco product, an electronic cigarette product, or a nicotine product to an

2073 individual who is under 21 years old, is guilty of:

2074 (a) a class C misdemeanor on the first offense;

2075 (b) a class B misdemeanor on the second offense; and

2076 (c) a class A misdemeanor on any subsequent offense.

2077 Section 44. Section **76-10-104.1 (Effective 07/01/20)** is amended to read:

2078 **76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to a minor --**

2079 **Penalties.**

2080 [~~(1) For purposes of this section:~~]

2081 [~~(a) "Provides":~~]

2082 (1) As used in this section, "provides":

2083 [~~(i)~~] (a) includes selling, giving, furnishing, sending, or causing to be sent; and

2084 [~~(ii)~~] (b) does not include the acts of the United States Postal Service or other common
2085 carrier when engaged in the business of transporting and delivering packages for others or the
2086 acts of a person, whether compensated or not, who transports or delivers a package for another
2087 person without any reason to know of the package's content.

2088 [~~(b) "Tobacco paraphernalia": (i) means equipment, product, or material of any kind~~
2089 ~~that is used, intended for use, or designed for use to package, repackage, store, contain,~~
2090 ~~conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the~~
2091 ~~human body, including:~~]

2092 [~~(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without~~
2093 ~~screens, permanent screens, hashish heads, or punctured metal bowls;~~]

2094 [~~(B) water pipes;~~]

2095 [~~(C) carburetion tubes and devices;~~]

2096 [~~(D) smoking and carburetion masks;~~]

2097 [~~(E) roach clips, meaning objects used to hold burning material, such as a cigarette,~~
2098 ~~that has become too small or too short to be held in the hand;~~]

2099 [~~(F) chamber pipes;~~]

2100 [~~(G) carburetor pipes;~~]

2101 ~~[(H) electric pipes;]~~

2102 ~~[(I) air-driven pipes;]~~

2103 ~~[(J) chillums;]~~

2104 ~~[(K) bongs; and]~~

2105 ~~[(L) ice pipes or chillers; and]~~

2106 ~~[(ii) does not include matches or lighters.]~~

2107 (2) (a) It is unlawful for ~~[a person]~~ an individual to knowingly, intentionally,
 2108 recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under[
 2109 ~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1,~~
 2110 ~~2021,]~~ 21 years old.

2111 (b) ~~[A person]~~ An individual who violates this section is guilty of a class C
 2112 misdemeanor on the first offense and a class B misdemeanor on subsequent offenses.

2113 Section 45. Section **76-10-105 (Effective 07/01/20)** is amended to read:

2114 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, a cigarette, an**
 2115 **electronic cigarette product, a nicotine product, or tobacco by a minor -- Penalty --**
 2116 **Compliance officer authority -- Juvenile court jurisdiction.**

2117 (1) ~~[(a)]~~ An individual who is 18 years or older, but younger than ~~[the age specified in~~
 2118 ~~Subsection (1)(b)]~~ 21 years old, and buys or attempts to buy, accepts, or has in the individual's
 2119 possession ~~[any cigar, cigarette, electronic cigarette, or tobacco in any form]~~ a tobacco product,
 2120 an electronic cigarette product, or a nicotine product is guilty of an infraction and subject to:

2121 ~~[(i)]~~ (a) a minimum fine or penalty of \$60; and

2122 ~~[(ii)]~~ (b) participation in a court-approved tobacco education or cessation program,
 2123 which may include a participation fee.

2124 ~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

2125 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

2126 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

2127 (2) (a) An individual under the age of 18 who buys or attempts to buy, accepts, or has
 2128 in the individual's possession ~~[any cigar, cigarette, electronic cigarette, or tobacco in any form]~~

2129 a tobacco product, an electronic cigarette product, or a nicotine product is subject to the
 2130 jurisdiction of the juvenile court and subject to Section 78A-6-602, unless the violation is
 2131 committed on school property.

2132 (b) If a violation under this section is adjudicated under Section 78A-6-117, the minor
 2133 may be subject to the following:

2134 ~~[(a)]~~ (i) a fine or penalty, in accordance with Section 78A-6-117; and

2135 ~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may
 2136 include a participation fee.

2137 (3) (a) A compliance officer appointed by a board of education under Section
 2138 53G-4-402 may not issue a citation for a violation of this section committed on school
 2139 property.

2140 (b) A cited violation committed on school property shall be addressed in accordance
 2141 with Section 53G-8-211.

2142 ~~[(4)(a) This section does not apply to the purchase or possession of a cigar, cigarette,
 2143 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older
 2144 and is:]~~

2145 ~~[(i) on active duty in the United States Armed Forces; or]~~

2146 ~~[(ii) a spouse or dependent of an individual who is on active duty in the United States
 2147 Armed Forces:]~~

2148 ~~[(b) A valid, government-issued military identification card is required to verify proof
 2149 of age under Subsection (4)(a).]~~

2150 Section 46. Section 76-10-105.1 (Effective 07/01/20) is amended to read:

2151 **76-10-105.1 (Effective 07/01/20). Requirement of direct, face-to-face sale of a**
 2152 **tobacco product, an electronic cigarette product, or a nicotine product -- Minors not**
 2153 **allowed in tobacco specialty shop -- Penalties.**

2154 (1) As used in this section:

2155 ~~[(a) "Cigarette" means the same as that term is defined in Section 59-14-102.]~~

2156 ~~[(b)]~~ (a) (i) "Face-to-face exchange" means a transaction made in person between an

2157 individual and a retailer or retailer's employee.

2158 (ii) "Face-to-face exchange" does not include a sale through a:

2159 (A) vending machine; or

2160 (B) self-service display.

2161 ~~[(e)]~~ (b) "Retailer" means a person who:

2162 (i) sells a ~~[cigarette, tobacco, or]~~ tobacco product, an electronic cigarette product, or a
2163 nicotine product to an individual for personal consumption; or

2164 (ii) operates a facility with a vending machine that sells a ~~[cigarette, tobacco, or]~~
2165 tobacco product, an electronic cigarette product, or a nicotine product.

2166 ~~[(d)]~~ (c) "Self-service display" means a display of a cigarette, tobacco product, ~~[or]~~ an
2167 electronic cigarette product, or a nicotine product to which the public has access without the
2168 intervention of a retailer or retailer's employee.

2169 ~~[(e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.]~~

2170 ~~[(f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is
2171 defined:]~~

2172 ~~[(i) as it relates to a municipality, in Section [10-8-41.6](#); and]~~

2173 ~~[(ii) as it relates to a county, in Section [17-50-333](#).]~~

2174 (2) Except as provided in Subsection (3), a retailer may sell a ~~[cigarette, tobacco, or]~~
2175 tobacco product, an electronic cigarette product, or a nicotine product only in a face-to-face
2176 exchange.

2177 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

2178 (a) a mail-order, telephone, or Internet sale made in compliance with Section
2179 [59-14-509](#);

2180 (b) a sale from a vending machine or self-service display that is located in an area of a
2181 retailer's facility:

2182 (i) that is distinct and separate from the rest of the facility; and

2183 (ii) where the retailer only allows an individual who complies with Subsection (4) to be
2184 present; or

- 2185 (c) a sale at a retail tobacco specialty [shop] business.
- 2186 (4) ~~[(a)]~~ An individual who ~~[is less than the age specified in Subsection (4)(b)]~~ is under
- 2187 21 years old may not enter or be present at a ~~[tobacco specialty shop]~~ retail tobacco specialty
- 2188 business unless the individual is:
- 2189 ~~[(i)]~~ (a) accompanied by a parent or legal guardian; or
- 2190 ~~[(ii)]~~ (b) present at the ~~[tobacco shop]~~ retail tobacco specialty business for a bona fide
- 2191 commercial purpose other than to purchase a ~~[cigarette, tobacco, or]~~ tobacco product, an
- 2192 electronic cigarette~~[-, or]~~ product, or a nicotine product.
- 2193 ~~[(iii)] 18 years old or older and an active duty member of the United States Armed~~
- 2194 ~~Forces, as demonstrated by a valid, government-issued military identification card.]~~
- 2195 ~~[(b) For purposes of Subsection (4)(a), the individual is younger than:]~~
- 2196 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~
- 2197 ~~[(ii) beginning July 1, 2021, 21 years old.]~~
- 2198 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)~~[(i)]~~, an
- 2199 individual into an area described in Subsection (3)(b), or into a ~~[tobacco specialty shop;]~~ retail
- 2200 tobacco specialty business may not allow the individual to purchase a cigarette, tobacco, ~~[or]~~ an
- 2201 electronic cigarette product, or a nicotine product.
- 2202 (6) A violation of Subsection (2) or (4) is a:
- 2203 (a) class C misdemeanor on the first offense;
- 2204 (b) class B misdemeanor on the second offense; and
- 2205 (c) class A misdemeanor on ~~[the third and all]~~ any subsequent offenses.
- 2206 (7) An individual who violates Subsection (5) is guilty of ~~[providing tobacco to a~~
- 2207 ~~minor]~~ an offense under Section [76-10-104](#).
- 2208 (8) (a) An ordinance, regulation, or rule adopted by the governing body of a political
- 2209 subdivision of the state or by a state agency that affects the sale, minimum age of sale,
- 2210 placement, or display of ~~[cigarettes, tobacco, or electronic cigarettes]~~ tobacco products,
- 2211 electronic cigarette products, or nicotine products that is not essentially identical to this section
- 2212 and Section [76-10-102](#) is superseded.

2213 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use
2214 ordinance by a municipal or county government.

2215 Section 47. Section **76-10-111** is amended to read:

2216 **76-10-111. Restrictions on sale of smokeless tobacco or electronic cigarette**
2217 **products -- Exceptions.**

2218 (1) The Legislature finds that:

2219 (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who
2220 use those products because research indicates that they may cause mouth or oral cancers;

2221 (b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

2222 (c) the use of electronic [~~cigarettes~~] cigarette products may lead to unhealthy behavior
2223 such as the use of tobacco products; and

2224 (d) it is necessary to restrict the gift of the products described in this Subsection (1) in
2225 the interest of the health of the citizens of this state.

2226 (2) (a) Except as provided in Subsection (3), it is unlawful for a manufacturer,
2227 wholesaler, and retailer to:

2228 (i) give or distribute without charge any smokeless tobacco, chewing tobacco, or
2229 electronic cigarette product in this state[.];

2230 (ii) sell, offer for sale, or furnish any electronic cigarette product at less than the cost,
2231 including the amount of any applicable tax, of the product to the manufacturer, wholesaler, or
2232 retailer; or

2233 (iii) give, distribute, sell, offer for sale, or furnish any electronic cigarette product for
2234 free or at a lower price because the recipient of the electronic cigarette product makes another
2235 purchase.

2236 (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection
2237 (2)(a)(ii) does not include a discount for:

2238 (i) a physical manufacturer coupon:

2239 (A) that is surrendered to the wholesaler or retailer at the time of sale; and

2240 (B) for which the manufacturer will reimburse the wholesaler or the retailer for the full

2241 amount of the discount described in the manufacturer coupon and provided to the purchaser;

2242 (ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for the

2243 full amount of the rebate provided to the purchaser; or

2244 (iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the

2245 retailer for the full amount of the promotional fund provided to the purchaser.

2246 (c) Any [person] individual who violates this section is guilty of:

2247 (i) a class C misdemeanor for the first offense[~~, and is guilty of~~]; and

2248 (ii) a class B misdemeanor for any subsequent offense.

2249 (3) ~~(a)~~ Smokeless tobacco, chewing tobacco, or an electronic cigarette product may

2250 be distributed to adults without charge at professional conventions where the general public is

2251 excluded.

2252 ~~[(b) Subsection (2) does not apply to a retailer, manufacturer, or distributor who gives~~

2253 ~~smokeless tobacco, chewing tobacco, or an electronic cigarette to a person of legal age upon~~

2254 ~~the person's purchase of another tobacco product or electronic cigarette.]~~

2255 Section 48. Section **77-39-101 (Effective 07/01/20)** is amended to read:

2256 **77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco products,**

2257 **electronic cigarette products, and nicotine products to underage individuals.**

2258 (1) As used in this section~~[;]~~:

2259 (a) ~~["electronic"]~~ "Electronic cigarette product" [is as] means the same as that term is

2260 defined in Section [76-10-101](#).

2261 (b) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).

2262 (c) "Tobacco product" means the same as that term is defined in Section [76-10-101](#).

2263 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer

2264 Classifications, may investigate the possible violation of:

2265 (i) Section [32B-4-403](#) by requesting an individual under 21 years old to enter into and

2266 attempt to purchase or make a purchase of alcohol from a retail establishment; or

2267 (ii) Section [76-10-104](#) by requesting an individual under ~~[the age specified in~~

2268 ~~Subsection (2)(c)]~~ 21 years old to enter into and attempt to purchase or make a purchase from a

2269 retail establishment of:

2270 [~~(A)~~ a cigar;]

2271 [~~(B)~~ a cigarette;]

2272 [~~(C)~~ tobacco in any form; or]

2273 (A) a tobacco product;

2274 [~~(D)~~ (B) an electronic cigarette[-] product; or

2275 (C) a nicotine product.

2276 (b) A peace officer who is present at the site of a proposed purchase shall direct,
2277 supervise, and monitor the individual requested to make the purchase.

2278 (c) Immediately following a purchase or attempted purchase or as soon as practical the
2279 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
2280 establishment that the attempted purchaser was under the legal age to purchase:

2281 (i) alcohol; or

2282 [~~(ii) (A) a cigar;]~~

2283 [~~(B) a cigarette;]~~

2284 [~~(C) tobacco in any form; or]~~

2285 (ii) (A) a tobacco product;

2286 [~~(D)~~ (B) an electronic cigarette[-] product; or

2287 (C) a nicotine product.

2288 (d) If a citation or information is issued, it shall be issued within seven days of the
2289 purchase.

2290 [~~(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:]~~

2291 [~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

2292 [~~(ii) beginning July 1, 2021, 21 years old.]~~

2293 (3) (a) If an individual under the age of 18 years old is requested to attempt a purchase,
2294 a written consent of that individual's parent or guardian shall be obtained prior to that
2295 individual participating in any attempted purchase.

2296 (b) An individual requested by the peace officer to attempt a purchase may:

2297 (i) be a trained volunteer; or
2298 (ii) receive payment, but may not be paid based on the number of successful purchases
2299 of alcohol, tobacco products, ~~or an~~ electronic cigarette products, or nicotine products.

2300 (4) The individual requested by the peace officer to attempt a purchase and anyone
2301 accompanying the individual attempting a purchase may not during the attempted purchase
2302 misrepresent the age of the individual by false or misleading identification documentation in
2303 attempting the purchase.

2304 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
2305 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
2306 purchase of, or possession of alcohol, a ~~cigar, a cigarette, tobacco in any form, or~~ tobacco
2307 product, an electronic cigarette product, or a nicotine product if a peace officer directs,
2308 supervises, and monitors the individual.

2309 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
2310 shall be conducted within a 12-month period:

2311 (i) on a random basis at any one retail establishment location, not more often than four
2312 times for the attempted purchase of alcohol; and

2313 (ii) a minimum of two times at a retail establishment that sells tobacco products,
2314 electronic cigarette products, or nicotine products for the attempted purchase of a tobacco
2315 product, an electronic cigarette product, or a nicotine product.

2316 [~~(i) on a random basis; and~~]

2317 [~~(ii) within a 12-month period at any one retail establishment location not more often~~
2318 ~~than:]~~

2319 [~~(A) two times for the attempted purchase of:]~~

2320 [~~(F) a cigar;]~~

2321 [~~(H) a cigarette;]~~

2322 [~~(H) tobacco in any form; or]~~

2323 [~~(IV) an electronic cigarette; and]~~

2324 [~~(B) four times for the attempted purchase of alcohol.]~~

2325 (b) This section does not prohibit an investigation or an attempt to purchase [~~tobacco~~
2326 alcohol, a tobacco product, an electronic cigarette product, or a nicotine product under this
2327 section if:

2328 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
2329 [~~cigar, a cigarette, tobacco in any form, or~~ tobacco product, an electronic cigarette product, or
2330 a nicotine product to an individual under the age established by Section [32B-4-403](#) or
2331 [76-10-104](#); and

2332 (ii) the supervising peace officer makes a written record of the grounds for the
2333 reasonable suspicion.

2334 (7) (a) The peace officer exercising direction, supervision, and monitoring of the
2335 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
2336 was made.

2337 (b) The report required by this Subsection (7) shall include:

2338 (i) the name of the supervising peace officer;

2339 (ii) the name of the individual attempting the purchase;

2340 (iii) a photograph of the individual attempting the purchase showing how that
2341 individual appeared at the time of the attempted purchase;

2342 (iv) the name and description of the cashier or proprietor from whom the individual
2343 attempted the purchase;

2344 (v) the name and address of the retail establishment; and

2345 (vi) the date and time of the attempted purchase.

2346 Section 49. **Effective date.**

2347 This bill takes effect on July 1, 2020.