

1 **TOBACCO REGULATION AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Gene Davis**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions relating to the regulation of electronic cigarettes.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ provides that a regulation on nicotine content in electronic cigarette products may
13 not be more restrictive than a certain level; and

14 ▶ limits the Department of Health's authority to regulate certain electronic cigarette
15 products that have been authorized for sale by the United States Food and Drug
16 Administration.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **26-57-103**, as last amended by Laws of Utah 2020, Chapter 302

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

26 Section 1. Section **26-57-103** is amended to read:

27 **26-57-103. Electronic cigarette products -- Labeling -- Manufacturing and**



28 **quality control standards -- Advertising.**

29 (1) The department shall, in consultation with a local health department, as defined in
30 Section 26A-1-102, and with input from members of the public, establish by rule made in
31 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards for
32 electronic cigarette substance:

- 33 (a) labeling;
- 34 (b) nicotine content;
- 35 (c) packaging; and
- 36 (d) product quality.

37 (2) On or before January 1, 2021, the department shall, in consultation with a local
38 health department, as defined in Section 26A-1-102, and with input from members of the
39 public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
40 Rulemaking Act, the standards for manufacturer sealed electronic cigarette substance:

- 41 (a) labeling;
- 42 (b) nicotine content;
- 43 (c) packaging; and
- 44 (d) product quality.

45 (3) (a) A person may not sell an electronic cigarette substance unless the electronic
46 cigarette substance complies with the standards established by the department under Subsection
47 (1).

48 (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic
49 cigarette substance unless the manufacturer sealed electronic cigarette substance complies with
50 the standards established by the department under Subsection (2).

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

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

56 (c) A local health department may not enact a rule or regulation regarding a
57 manufacturer sealed electronic cigarette substance.

58 (5) A person may not advertise an electronic cigarette product:

- 59 (a) as a tobacco cessation device;
- 60 (b) if the person is not licensed to sell an electronic cigarette product under Section
- 61 [59-14-803](#); or
- 62 (c) during a period of time when the person's license to sell an electronic cigarette
- 63 product under Section [59-14-803](#) has been suspended or revoked.
- 64 (6) The department may not:
- 65 (a) set a standard for nicotine content under Subsection (1) or (2) that limits nicotine
- 66 content to a concentration that is lower than the greater of:
- 67 (i) 75 mg/mL; and
- 68 (ii) the nicotine yield of an electronic cigarette product established by federal law; or
- 69 (b) regulate a product under this section if the product is authorized for sale under:
- 70 (i) 21 U.S.C. Sec. 387j;
- 71 (ii) 21 U.S.C. Sec. 387k; or
- 72 (iii) any other review process established by the United States Food and Drug
- 73 Administration to authorize an electronic cigarette product for sale in the United States.