

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ELECTRONIC CIGARETTE AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Jen Plumb
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies provisions related to electronic cigarettes.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 10-8-41.6**, as last amended by Laws of Utah 2023, Chapter 327
- 17-50-333**, as last amended by Laws of Utah 2023, Chapter 327
- 26B-7-505**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 59-14-807**, as last amended by Laws of Utah 2023, Chapters 98, 300, 329, and 531 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 531
- 76-10-101**, as last amended by Laws of Utah 2023, Chapter 330
- 76-10-113**, as enacted by Laws of Utah 2020, Chapter 302

ENACTS:

28 **26A-1-131**, Utah Code Annotated 1953

29 **59-14-810**, Utah Code Annotated 1953

30

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

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

33 **10-8-41.6 . Regulation of retail tobacco specialty business.**

34 (1) As used in this section:

35 (a) "Community location" means:

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

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

38 (iii) a trade or technical school;

39 (iv) a church;

40 (v) a public library;

41 (vi) a public playground;

42 (vii) a public park;

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

44 (ix) a public recreational facility;

45 (x) a public arcade; or

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

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

48 Section 26B-1-201.

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

50 76-10-101.

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

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

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

54 retail tobacco specialty business.

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

56 26A-1-102.

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

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

59 (i) sales of tobacco products, electronic cigarette products, and nicotine products

60 account for more than 35% of the total quarterly gross receipts for the

61 establishment;

- 62 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 63 storage of tobacco products, electronic cigarette products, or nicotine products;
- 64 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage
- 65 of tobacco products, electronic cigarette products, or nicotine products;
- 66 (iv) the commercial establishment:
- 67 (A) holds itself out as a retail tobacco specialty business; and
- 68 (B) causes a reasonable person to believe the commercial establishment is a retail
- 69 tobacco specialty business; or
- 70 [~~(v) any flavored electronic cigarette product is sold; or~~]
- 71 [~~(vi)~~] (v) the retail space features a self-service display for tobacco products,
- 72 electronic cigarette products, or nicotine products.
- 73 [(+) (h) "Self-service display" means the same as that term is defined in Section
- 74 76-10-105.1.
- 75 [(+) (i) "Tobacco product" means:
- 76 (i) a tobacco product as defined in Section 76-10-101; or
- 77 (ii) tobacco paraphernalia as defined in Section 76-10-101.
- 78 (2) The regulation of a retail tobacco specialty business is an exercise of the police powers
- 79 of the state by the state or by delegation of the state's police powers to other
- 80 governmental entities.
- 81 (3) (a) A person may not operate a retail tobacco specialty business in a municipality
- 82 unless the person obtains a license from the municipality in which the retail tobacco
- 83 specialty business is located.
- 84 (b) A municipality may only issue a retail tobacco specialty business license to a person
- 85 if the person complies with the provisions of Subsections (4) and (5).
- 86 (4) (a) Except as provided in Subsection (7), a municipality may not issue a license for a
- 87 person to conduct business as a retail tobacco specialty business if the retail tobacco
- 88 specialty business is located within:
- 89 (i) 1,000 feet of a community location;
- 90 (ii) 600 feet of another retail tobacco specialty business; or
- 91 (iii) 600 feet from property used or zoned for:
- 92 (A) agriculture use; or
- 93 (B) residential use.
- 94 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a
- 95 straight line from the nearest entrance of the retail tobacco specialty business to the

96 nearest property boundary of a location described in Subsections (4)(a)(i) through
97 (iii), without regard to intervening structures or zoning districts.

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

101 (a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter
102 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the
103 local health department having jurisdiction over the area in which the retail tobacco
104 specialty business is located; and

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

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

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

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

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

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

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

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

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

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

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

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

- 130 (ii) the retail tobacco specialty business is operating in a municipality in accordance
131 with all applicable laws except for the requirement in Subsection (4); and
- 132 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
133 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
134 high school.
- 135 (b) A retail tobacco specialty business may maintain an exemption under Subsection
136 (7)(a) if:
- 137 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
138 or permanent revocation;
- 139 (ii) the retail tobacco specialty business does not close for business or otherwise
140 suspend the sale of tobacco products, electronic cigarette products, or nicotine
141 products for more than 60 consecutive days;
- 142 (iii) the retail tobacco specialty business does not substantially change the business
143 premises or business operation; and
- 144 (iv) the retail tobacco specialty business maintains the right to operate under the
145 terms of other applicable laws, including:
- 146 (A) Section 26B-7-503;
- 147 (B) zoning ordinances;
- 148 (C) building codes; and
- 149 (D) the requirements of the license described in Subsection (7)(a)(i).
- 150 (c) A retail tobacco specialty business that does not qualify for an exemption under
151 Subsection (7)(a) is exempt from Subsection (4) if:
- 152 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
153 general tobacco retailer permit or a retail tobacco specialty business permit under
154 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
155 Nicotine Products, by the local health department having jurisdiction over the area
156 in which the retail tobacco specialty business is located;
- 157 (ii) the retail tobacco specialty business is operating in the municipality in accordance
158 with all applicable laws except for the requirement in Subsection (4); and
- 159 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
160 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
161 high school.
- 162 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may
163 maintain an exemption under Subsection (7)(c) if:

- 164 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
 165 retail tobacco specialty business permit from the local health department having
 166 jurisdiction over the area in which the retail tobacco specialty business is located;
 167 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without
 168 lapse or permanent revocation;
 169 (iii) the retail tobacco specialty business does not close for business or otherwise
 170 suspend the sale of tobacco products, electronic cigarette products, or nicotine
 171 products for more than 60 consecutive days;
 172 (iv) the retail tobacco specialty business does not substantially change the business
 173 premises or business operation as the business existed when the retail tobacco
 174 specialty business received a permit under Subsection (7)(d)(i); and
 175 (v) the retail tobacco specialty business maintains the right to operate under the terms
 176 of other applicable laws, including:
 177 (A) Section 26B-7-503;
 178 (B) zoning ordinances;
 179 (C) building codes; and
 180 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
 181 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
 182 located within 1,000 feet of a public or private kindergarten, elementary, middle,
 183 junior high, or high school before July 1, 2022, is exempt from Subsection
 184 (4)(a)(iii)(B) if the retail tobacco specialty business:
 185 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial
 186 use and located within a group of architecturally unified commercial
 187 establishments built on a site that is planned, developed, owned, and managed as
 188 an operating unit; and
 189 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
 190 directly related to the relocation described in this Subsection (7)(e).

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

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

- 193 (1) As used in this section:
 194 (a) "Community location" means:
 195 (i) a public or private kindergarten, elementary, middle, junior high, or high school;
 196 (ii) a licensed child-care facility or preschool;
 197 (iii) a trade or technical school;

- 198 (iv) a church;
- 199 (v) a public library;
- 200 (vi) a public playground;
- 201 (vii) a public park;
- 202 (viii) a youth center or other space used primarily for youth oriented activities;
- 203 (ix) a public recreational facility;
- 204 (x) a public arcade; or
- 205 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 206 (b) "Department" means the Department of Health and Human Services created in
- 207 Section 26B-1-201.
- 208 (c) "Electronic cigarette product" means the same as that term is defined in Section
- 209 76-10-101.
- 210 ~~[(d) "Flavored electronic cigarette product" means the same as that term is defined in~~
- 211 ~~Section 76-10-101.]~~
- 212 ~~[(e)]~~ (d) "Licensee" means a person licensed under this section to conduct business as a
- 213 retail tobacco specialty business.
- 214 ~~[(f)]~~ (e) "Local health department" means the same as that term is defined in Section
- 215 26A-1-102.
- 216 ~~[(g)]~~ (f) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 217 ~~[(h)]~~ (g) "Retail tobacco specialty business" means a commercial establishment in which:
- 218 (i) sales of tobacco products, electronic cigarette products, and nicotine products
- 219 account for more than 35% of the total quarterly gross receipts for the
- 220 establishment;
- 221 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 222 storage of tobacco products, electronic cigarette products, or nicotine products;
- 223 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage
- 224 of tobacco products, electronic cigarette products, or nicotine products;
- 225 (iv) the commercial establishment:
- 226 (A) holds itself out as a retail tobacco specialty business; and
- 227 (B) causes a reasonable person to believe the commercial establishment is a retail
- 228 tobacco specialty business; or
- 229 ~~[(v) any flavored electronic cigarette product is sold; or]~~
- 230 ~~[(vi)]~~ (v) the retail space features a self-service display for tobacco products,
- 231 electronic cigarette products, or nicotine products.

- 232 [(+) (h) "Self-service display" means the same as that term is defined in Section
233 76-10-105.1.
- 234 [(+) (i) "Tobacco product" means:
235 (i) the same as that term is defined in Section 76-10-101; or
236 (ii) tobacco paraphernalia as defined in Section 76-10-101.
- 237 (2) The regulation of a retail tobacco specialty business is an exercise of the police powers
238 of the state by the state or by the delegation of the state's police power to other
239 governmental entities.
- 240 (3) (a) A person may not operate a retail tobacco specialty business in a county unless
241 the person obtains a license from the county in which the retail tobacco specialty
242 business is located.
- 243 (b) A county may only issue a retail tobacco specialty business license to a person if the
244 person complies with the provisions of Subsections (4) and (5).
- 245 (4) (a) Except as provided in Subsection (7), a county may not issue a license for a
246 person to conduct business as a retail tobacco specialty business if the retail tobacco
247 specialty business is located within:
248 (i) 1,000 feet of a community location;
249 (ii) 600 feet of another retail tobacco specialty business; or
250 (iii) 600 feet from property used or zoned for:
251 (A) agriculture use; or
252 (B) residential use.
- 253 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a
254 straight line from the nearest entrance of the retail tobacco specialty business to the
255 nearest property boundary of a location described in Subsections (4)(a)(i) through
256 (iii), without regard to intervening structures or zoning districts.
- 257 (5) A county may not issue or renew a license for a person to conduct business as a retail
258 tobacco specialty business until the person provides the county with proof that the retail
259 tobacco specialty business has:
260 (a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter
261 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the
262 local health department having jurisdiction over the area in which the retail tobacco
263 specialty business is located; and
264 (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State
265 Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a

- 266 tobacco product; or
- 267 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
- 268 license issued by the State Tax Commission in accordance with Section 59-14-803
- 269 to sell an electronic cigarette product or a nicotine product.
- 270 (6) (a) Nothing in this section:
- 271 (i) requires a county to issue a retail tobacco specialty business license; or
- 272 (ii) prohibits a county from adopting more restrictive requirements on a person
- 273 seeking a license or renewal of a license to conduct business as a retail tobacco
- 274 specialty business.
- 275 (b) A county may suspend or revoke a retail tobacco specialty business license issued
- 276 under this section:
- 277 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,
- 278 Part 16, Pattern of Unlawful Activity Act;
- 279 (ii) if a licensee violates federal law or federal regulations restricting the sale and
- 280 distribution of tobacco products or electronic cigarette products to protect children
- 281 and adolescents;
- 282 (iii) upon the recommendation of the department or a local health department under
- 283 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
- 284 Nicotine Products; or
- 285 (iv) under any other provision of state law or local ordinance.
- 286 (7) (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is
- 287 exempt from Subsection (4) if:
- 288 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
- 289 license to conduct business as a retail tobacco specialty business;
- 290 (ii) the retail tobacco specialty business is operating in a county in accordance with
- 291 all applicable laws except for the requirement in Subsection (4); and
- 292 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
- 293 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
- 294 high school.
- 295 (b) A retail tobacco specialty business may maintain an exemption under Subsection
- 296 (7)(a) if:
- 297 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
- 298 or permanent revocation;
- 299 (ii) the retail tobacco specialty business does not close for business or otherwise

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

- 334 specialty business received a permit under Subsection (7)(d)(i); and
335 (v) the retail tobacco specialty business maintains the right to operate under the terms
336 of other applicable laws, including:
337 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
338 (B) zoning ordinances;
339 (C) building codes; and
340 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
341 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
342 located within 1,000 feet of a public or private kindergarten, elementary, middle,
343 junior high, or high school before July 1, 2022, is exempt from Subsection
344 (4)(a)(iii)(B) if the retail tobacco specialty business:
345 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial
346 use and located within a group of architecturally unified commercial
347 establishments built on a site that is planned, developed, owned, and managed as
348 an operating unit; and
349 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
350 directly related to the relocation described in this Subsection (7)(e).

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

352 **26A-1-131 . Electronic cigarette registry enforcement.**

- 353 (1) (a) A local health department may examine the books, papers, and records of a
354 retailer in this state, for the purpose of determining compliance with Section
355 59-14-810.
356 (b) A local health department may make the inspections and examinations at any time
357 during ordinary business hours, and may inspect the premises and all desks, safes,
358 vaults, and other fixtures and furniture contained in or upon the premises for the
359 purpose of ascertaining whether an electronic cigarette product is held or possessed
360 in violation of Section 59-14-810.
361 (c) Unannounced follow-up examinations of all retailers are required within 30 days
362 after any violation of Section 59-14-810.
363 (d) A local health department shall publish the results of all examinations at least
364 annually and shall make the results available to the public on request.
365 (e) Any electronic cigarette product offered for sale in violation of Section 59-14-810 is
366 declared to be a contraband good and shall be immediately embargoed by a local
367 health department.

- 368 (f) An electronic cigarette product described in Subsection (1)(e) may be embargoed
369 without a warrant by:
370 (i) a local health department; or
371 (ii) a law enforcement agency of this state if directed by a local health department
372 with jurisdiction over where the product is found.
373 (g) The cost of embargoing shall be borne by the retailer.
374 (h) In an action brought under this section, a local health department may recover
375 reasonable expenses incurred in investigating and preparing the case and attorney
376 fees.
377 (i) A retailer shall remove any embargoed electronic cigarette product from the retailer's
378 active inventory and work with the wholesaler or distributor to return or dispose the
379 electronic cigarette product.
380 (2) (a) A local health department shall disclose to the attorney general any information
381 received under this section which is requested by the attorney general for purposes of
382 determining compliance with and enforcing the provisions of this section or Section
383 59-14-810.
384 (b) A local health department and the attorney general shall share with each other
385 information received under this section and Section 59-14-810 or corresponding laws
386 of other states.
387 (c) A local health department shall provide any necessary information to the State Tax
388 Commission regarding violations of Section 59-14-810.
389 (3) A monetary penalty assessed to a retailer by a local health department under this section
390 shall be doubled if the retailer fails to provide documentation establishing a clear chain
391 of custody back to the manufacturer.

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

393 **26B-7-505 . Electronic cigarette products -- Labeling -- Requirements to sell --**
394 **Advertising -- Labeling of nicotine products containing nicotine.**

- 395 (1) The department shall, in consultation with a local health department and with input from
396 members of the public, establish by rule made in accordance with Title 63G, Chapter 3,
397 Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette
398 substance that is not a manufacturer sealed electronic cigarette substance regarding:
399 (a) labeling;
400 (b) nicotine content;
401 (c) packaging; and

- 402 (d) product quality.
- 403 (2) On or before January 1, 2021, the department shall, in consultation with a local health
404 department and with input from members of the public, establish by rule made in
405 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
406 requirements to sell a manufacturer sealed electronic cigarette product regarding:
- 407 (a) labeling;
- 408 (b) nicotine content;
- 409 (c) packaging; and
- 410 (d) product quality.
- 411 (3) (a) A person may not sell an electronic cigarette substance unless the electronic
412 cigarette substance complies with the requirements established by the department
413 under Subsection (1).
- 414 (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic
415 cigarette product unless the manufacturer sealed electronic cigarette product complies
416 with the requirements established by the department under Subsection (2).
- 417 (c) Notwithstanding Subsections (3)(a) and (3)(b), beginning on January 1, 2025, a
418 person may not sell an electronic cigarette product that is not a premarket authorized
419 or pending electronic cigarette product as that term is defined in Section 76-10-101.
- 420 (4) (a) A local health department may not enact a rule or regulation regarding electronic
421 cigarette substance labeling, nicotine content, packaging, or product quality that is
422 not identical to the requirements established by the department under Subsections (1)
423 and (2).
- 424 (b) Except as provided in Subsection (4)(c), a local health department may enact a rule
425 or regulation regarding electronic cigarette substance manufacturing.
- 426 (c) A local health department may not enact a rule or regulation regarding a
427 manufacturer sealed electronic cigarette product.
- 428 (5) A person may not advertise an electronic cigarette product as a tobacco cessation device.
- 429 (6) (a) Any nicotine product shall contain the statement described in Subsection ~~[(7)]~~
430 ~~(6)~~(b) if the nicotine product:
- 431 ~~[(a)]~~ (i) ~~[(+)]~~ (A) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and
432 related federal regulations; or
- 433 ~~[(+)]~~ (B) is not otherwise required under federal or state law to contain a nicotine
434 warning; and
- 435 ~~[(b)]~~ (ii) contains nicotine.

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

438 "This product contains nicotine."

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

440 **59-14-807 . Electronic Cigarette Substance and Nicotine Product Proceeds**

441 **Restricted Account.**

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

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

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

447 (b) fees and penalties collected under Section 59-14-810;

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

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

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

456 ~~[(e)]~~ (d) amounts appropriated by the Legislature.

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

460 (i) \$2,000,000, which shall be allocated to the local health departments by the
 461 Department of Health and Human Services using the formula created in
 462 accordance with Section 26A-1-116;

463 (ii) \$2,000,000 to the Department of Health and Human Services for statewide
 464 cessation programs and prevention education;

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

469 (iv) \$3,000,000, which shall be allocated to the local health departments by the

- 470 Department of Health and Human Services using the formula created in
471 accordance with Section 26A-1-116;
- 472 (v) \$5,084,200 to the State Board of Education for school-based prevention
473 programs; [~~and~~]
- 474 (vi) \$2,000,000 to the Department of Health and Human Services for alcohol,
475 tobacco, and other drug prevention, reduction, cessation, and control programs
476 that promote unified messages and make use of media outlets, including radio,
477 newspaper, billboards, and television[-] ; and
- 478 (vii) of the money deposited under Section 59-14-810:
- 479 (A) to the commission, in an amount equal to the amount necessary to create and
480 maintain the registry described in Section 59-14-810;
- 481 (B) to the Department of Health and Human Services, in an amount necessary for
482 completing duties described in Section 59-14-810; and
- 483 (C) to the Department of Health and Human Services, the remainder to be divided
484 among the local health departments for inspection and enforcement described
485 in Sections 26A-1-131 and 59-14-810.
- 486 (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds
487 Restricted Account is insufficient to cover the distributions described in Subsection
488 (3)(a), the distribution amounts shall be adjusted proportionately.
- 489 (4) (a) The local health departments shall use the money received in accordance with
490 Subsection (3)(a) for enforcing:
- 491 (i) the regulation provisions described in Section 26B-7-505;
492 (ii) the labeling requirement described in Section 26B-7-505; and
493 (iii) the penalty provisions described in Section 26B-7-518.
- 494 (b) The Department of Health and Human Services shall use the money received in
495 accordance with Subsection (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana,
496 and Other Drug Prevention Program created in Section 26B-1-428.
- 497 (c) The local health departments shall use the money received in accordance with
498 Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and
499 Other Drug Prevention Grant Program created in Section 26A-1-129.
- 500 (d) The State Board of Education shall use the money received in accordance with
501 Subsection (3)(a)(v) to distribute to local education agencies to pay for:
- 502 (i) (A) stipends for positive behaviors specialists as described in Subsection
503 53G-10-407(4)(a)(i);

- 504 (B) the cost of administering the positive behaviors plan as described in
 505 Subsection 53G-10-407(4)(a)(ii); and
- 506 (C) the cost of implementing an Underage Drinking and Substance Abuse
 507 Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406
 508 (3)(b); or
- 509 (ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.
- 510 (5) (a) The fund shall earn interest.
- 511 (b) All interest earned on fund money shall be deposited into the fund.
- 512 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette
 513 Substance and Nicotine Product Proceeds Restricted Account after the distribution
 514 described in Subsection (3) may only be used for:
- 515 (a) funding commission personnel to enforce compliance with the tax collection
 516 requirements of this part; and
- 517 (b) programs and activities related to the prevention and cessation of electronic cigarette,
 518 nicotine products, marijuana, and other drug use.
- 519 Section 6. Section **59-14-810** is enacted to read:
- 520 **59-14-810 . Electronic cigarette product registry.**
- 521 (1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that
 522 is sold in this state, whether directly or through a distributor, wholesaler, retailer, or
 523 similar intermediary or intermediaries, shall certify under penalty of perjury on a form
 524 and in the manner prescribed by the commission, that:
- 525 (a) the manufacturer agrees to comply with this section; and
- 526 (b) the electronic cigarette product is a premarket authorized or pending electronic
 527 cigarette product as defined in Section 76-10-101 and will not be illegal to be sold in
 528 the state as of January 1, 2025.
- 529 (2) When submitting the certification a manufacturer shall submit a form that separately
 530 lists each electronic cigarette product that is sold in this state.
- 531 (3) (a) Each certification form shall include:
- 532 (i) the name of the electronic cigarette product, nicotine content level by percentage,
 533 and any flavors contained in the product;
- 534 (ii) (A) a copy of the order granting a premarket tobacco product application of
 535 the electronic cigarette product by the United States Food and Drug
 536 Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or
- 537 (B) evidence that the premarket tobacco product application for the electronic

- 538 cigarette product or nicotine product was submitted to the United States Food
539 and Drug Administration before September 9, 2020, and a final authorization
540 or order has not yet taken effect;
- 541 (iii) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added
542 to the registry in the first instance; and
- 543 (iv) information described in Subsection (10) if applicable.
- 544 (b) The commission shall make the materials submitted under Subsection (3)(a)
545 available to the Department of Health and Human Services for review and approval.
- 546 (c) A manufacturer required to submit a certification form under this section shall notify
547 the commission and the Department of Health and Human Services in a manner
548 prescribed by the commission within 30 days of any material change making the
549 certification form no longer accurate, including:
- 550 (i) the issuance or denial of a marketing authorization or other order by the United
551 States Food and Drug Administration under 21 U.S.C. Sec. 387j; or
- 552 (ii) any other order or action by the United States Food and Drug Administration or
553 any court that affects the ability of the electronic cigarette product to be
554 introduced or delivered into interstate commerce for commercial distribution in
555 the United States.
- 556 (d) On or before January 31 of each year and in a manner prescribed by the commission,
557 a manufacturer shall:
- 558 (i) recertify that the information contained in the certification is correct and accurate;
559 (ii) correct or amend information if necessary; and
- 560 (iii) pay a \$250 nonrefundable fee for each electronic cigarette product on the registry
561 that is manufactured by the manufacturer.
- 562 (e) A manufacturer may amend a certification, including to add additional electronic
563 cigarette products to the registry, if all requirements of this section are met.
- 564 (f) The commission shall:
- 565 (i) provide an electronic notification to a manufacturer that has not submitted a
566 recertification under Subsection (3)(d); and
- 567 (ii) remove a manufacturer or an electronic cigarette product that is not recertified
568 from the registry by March 15.
- 569 (4) (a) The Department of Health and Human Services shall review materials described
570 in Subsection (3)(a) and notify the commission regarding whether an electronic
571 cigarette product should be included in the registry.

- 572 (b) On or before October 1, 2024, the commission shall make publicly available on the
573 commission's website a registry that lists each electronic cigarette product
574 manufacturer and each electronic cigarette product for which certification forms have
575 been approved by the Department of Health and Human Services.
- 576 (c) An electronic cigarette product may not be listed on the registry unless the
577 Department of Health and Human Services determines the requirements of
578 Subsection (3)(a) are met.
- 579 (5) (a) If the Department of Health and Human Services obtains information that an
580 electronic cigarette product should not be listed in the registry, the Department of
581 Health and Human Services shall provide the manufacturer notice and an opportunity
582 to cure deficiencies before notifying the commission to remove the manufacturer or
583 products from the registry.
- 584 (b) Except as provided in Subsection (5)(c), the Department of Health and Human
585 Services shall comply with Title 63G, Chapter 4, Administrative Procedures Act,
586 before notifying the commission to remove an electronic cigarette product or
587 manufacturer from the registry.
- 588 (c) Subsection (5)(b) does not apply to a manufacturer failing:
589 (i) to decertify an electronic cigarette product;
590 (ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or
591 (iii) to comply with Subsection (10).
- 592 (6) (a) If a product is removed from the registry, each retailer, distributor, and
593 wholesaler shall have 30 days from the day on which the product is removed from the
594 registry to remove the product from any inventory and return the product to the
595 manufacturer for disposal.
- 596 (b) After the period described in Subsection (6)(a), any electronic cigarette product of a
597 manufacturer identified in the notice of removal are contraband and are subject to
598 penalties under Subsection (8) and seizure, forfeiture, and destruction under Section
599 26A-1-131.
- 600 (7) (a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an
601 electronic cigarette product in this state that is not included in the registry.
- 602 (b) A manufacturer may not sell, either directly or through a distributor, wholesaler,
603 retailer, or similar intermediary or intermediaries, an electronic cigarette product in
604 this state that is not included in the registry.
- 605 (8) (a) A wholesaler, distributor, or retailer who sells or offers for retail sale an

- 606 electronic cigarette product in this state that is not included in the registry shall be
607 subject to a civil penalty of:
- 608 (i) \$1,000 for each product offered for sale in violation of this section; and
609 (ii) \$100 per day until the offending product is removed from the market or until the
610 offending product is properly listed on the registry.
- 611 (b) The commission shall suspend the person's license issued under Section 59-14-803
612 for a violation of Subsection (8)(a) as follows:
- 613 (i) for a second violation within a 12-month period, at least 14 days;
614 (ii) for a third violation within a 12-month period, at least 60 days; or
615 (iii) for a fourth violation within a 12-month period, at least one year.
- 616 (c) A manufacturer whose electronic cigarette products are not listed in the registry and
617 are sold in this state, whether directly or through a distributor, wholesaler, retailer, or
618 similar intermediary or intermediaries, is subject to a civil penalty of:
- 619 (i) \$1,000 for each product offered for retail sale in violation of this section; and
620 (ii) \$100 per day until the offending product is removed from the market or until the
621 offending product is properly listed on the registry.
- 622 (d) A manufacturer that falsely represents any information required by a certification
623 form described in this section shall be guilty of a class C misdemeanor for each false
624 representation.
- 625 (e) A repeated violation of this section shall constitute a deceptive act or practice as
626 provided in Sections 13-11-4 and 13-11a-3 and shall be subject to any remedies or
627 penalties available for a violation of those sections.
- 628 (9) (a) To assist in ensuring compliance and enforcement of this section and Section
629 26A-1-131, the commission shall disclose to the following entities, upon request, any
630 information obtained under this section:
- 631 (i) the Department of Health and Human Services;
632 (ii) a local health department; or
633 (iii) the attorney general.
- 634 (b) The commission and attorney general shall share with each other information
635 received under this section, or corresponding laws of other states.
- 636 (10) (a) (i) The commission may not list a nonresident manufacturer of an electronic
637 cigarette product in the registry unless:
- 638 (A) the nonresident manufacturer has registered to do business in the state as a
639 foreign corporation or business entity; or

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

643 (b) The nonresident manufacturer shall provide the name, address, and telephone
 644 number of the agent to the commission.

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

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

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

656 (a) the status of the registry;

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

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

659 (d) enforcement activities undertaken under this section and Section 26A-1-131.

660 (12) All fees and penalties collected under this section shall be used for administration and
 661 enforcement of this section and Section 26A-1-131.

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

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

666 **76-10-101 . Definitions.**

667 As used in this part:

668 (1) (a) "Alternative nicotine product" means a product, other than a cigarette, a
 669 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine
 670 product, or a tobacco product, that:

671 (i) contains nicotine;

672 (ii) is intended for human consumption;

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

- 674 (iv) is not approved by the United States Food and Drug Administration as nicotine
675 replacement therapy.
- 676 (b) "Alternative nicotine product" includes:
- 677 (i) pure nicotine;
- 678 (ii) snortable nicotine;
- 679 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and
- 680 (iv) nicotine-laced food and beverage.
- 681 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that
682 contains naturally occurring nicotine.
- 683 (2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary
684 conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any
685 substance containing tobacco, other than any roll of tobacco that is a cigarette.
- 686 (3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned
687 under ordinary conditions of use, and consists of:
- 688 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
- 689 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
690 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is
691 likely to be offered to, or purchased by, consumers as a cigarette described in
692 Subsection (3)(a).
- 693 (4) (a) "Electronic cigarette" means:
- 694 (i) any electronic oral device:
- 695 (A) that provides an aerosol or a vapor of nicotine or other substance; and
- 696 (B) which simulates smoking through the use or inhalation of the device;
- 697 (ii) a component of the device described in Subsection (4)(a)(i); or
- 698 (iii) an accessory sold in the same package as the device described in Subsection
699 (4)(a)(i).
- 700 (b) "Electronic cigarette" includes an oral device that is:
- 701 (i) composed of a heating element, battery, or electronic circuit; and
- 702 (ii) marketed, manufactured, distributed, or sold as:
- 703 (A) an e-cigarette;
- 704 (B) an e-cigar;
- 705 (C) an e-pipe; or
- 706 (D) any other product name or descriptor, if the function of the product meets the
707 definition of Subsection (4)(a).

- 708 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is
709 defined in Section 26B-4-201.
- 710 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
711 substance, or a prefilled electronic cigarette.
- 712 (6) "Electronic cigarette substance" means any substance, including liquid containing
713 nicotine, used or intended for use in an electronic cigarette.
- 714 (7) (a) "Flavored electronic cigarette product" means an electronic cigarette product that
715 has a taste or smell that is distinguishable by an ordinary consumer either before or
716 during use or consumption of the electronic cigarette product.
- 717 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that is
718 labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy,
719 cocoa, dessert, alcoholic beverage, herb,~~or~~ spice, or mint.
- 720 (c) "Flavored electronic cigarette product" does not include an electronic cigarette
721 product that~~[:]~~ has a taste or smell of only tobacco or menthol.
722 ~~[(i) has a taste or smell of only tobacco, mint, or menthol; or]~~
723 ~~[(ii) has been approved by an order granting a premarket tobacco product application~~
724 ~~of the electronic cigarette product by the United States Food and Drug~~
725 ~~Administration under 21 U.S.C. Sec. 387j(e)(1)(A)(i).]~~
- 726 (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically
727 or derived from tobacco or other plants.
- 728 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine
729 product.
- 730 (10) (a) "Nontherapeutic nicotine device" means a device that:
731 (i) has a pressurized canister that is used to administer nicotine to the user through
732 inhalation or intranasally;
733 (ii) is not purchased with a prescription from a licensed physician; and
734 (iii) is not approved by the United States Food and Drug Administration as nicotine
735 replacement therapy.
- 736 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a
737 nontherapeutic nicotine nasal spray.
- 738 (11) "Nontherapeutic nicotine device substance" means a substance that:
739 (a) contains nicotine;
740 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
741 (c) is not purchased with a prescription from a licensed physician; and

- 742 (d) is not approved by the United States Food and Drug Administration as nicotine
743 replacement therapy.
- 744 (12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a
745 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.
- 746 (13) "Place of business" includes:
- 747 (a) a shop;
 - 748 (b) a store;
 - 749 (c) a factory;
 - 750 (d) a public garage;
 - 751 (e) an office;
 - 752 (f) a theater;
 - 753 (g) a recreation hall;
 - 754 (h) a dance hall;
 - 755 (i) a poolroom;
 - 756 (j) a cafe;
 - 757 (k) a cafeteria;
 - 758 (l) a cabaret;
 - 759 (m) a restaurant;
 - 760 (n) a hotel;
 - 761 (o) a lodging house;
 - 762 (p) a streetcar;
 - 763 (q) a bus;
 - 764 (r) an interurban or railway passenger coach;
 - 765 (s) a waiting room; and
 - 766 (t) any other place of business.
- 767 (14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with
768 an electronic cigarette substance.
- 769 (15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that
770 is sold prefilled with a nontherapeutic nicotine device substance.
- 771 (16) "Premarket authorized or pending electronic cigarette product" means an electronic
772 cigarette product that:
- 773 (a) (i) has been approved by an order granting a premarket tobacco product
774 application of the electronic cigarette product by the United States Food and Drug
775 Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

- 776 (ii) (A) was marketed in the United States on or before August 8, 2016;
777 (B) the manufacturer submitted a premarket tobacco product application for the
778 electronic cigarette product to the United States Food and Drug Administration
779 under 21 U.S.C. Sec. 387j on or before September 9, 2020; and
780 (C) has an application described in Subsection (16)(b)(ii) that either remains under
781 review by the United States Food and Drug Administration or a final decision
782 on the application has not taken effect; and
- 783 (b) does not exceed:
- 784 (i) 4.0% nicotine by weight per container; or
785 (ii) a nicotine concentration of 40 milligrams per milliliter.
- 786 ~~[(16)]~~ (17) "Retail tobacco specialty business" means the same as that term is defined in
787 Section 26B-7-501.
- 788 ~~[(17)]~~ (18) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
789 lighted smoking equipment.
- 790 ~~[(18)]~~ (19) (a) "Tobacco paraphernalia" means equipment, product, or material of any
791 kind that is used, intended for use, or designed for use to package, repackage, store,
792 contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an
793 electronic cigarette substance, or a nontherapeutic nicotine device substance into the
794 human body.
- 795 (b) "Tobacco paraphernalia" includes:
- 796 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
797 screens, permanent screens, hashish heads, or punctured metal bowls;
798 (ii) water pipes;
799 (iii) carburetion tubes and devices;
800 (iv) smoking and carburetion masks;
801 (v) roach clips, meaning objects used to hold burning material, such as a cigarette,
802 that has become too small or too short to be held in the hand;
803 (vi) chamber pipes;
804 (vii) carburetor pipes;
805 (viii) electric pipes;
806 (ix) air-driven pipes;
807 (x) chillums;
808 (xi) bongs; and
809 (xii) ice pipes or chillers.

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

811 [~~(19)~~] (20) "Tobacco product" means:

812 (a) a cigar;

813 (b) a cigarette; or

814 (c) tobacco in any form, including:

815 (i) chewing tobacco; and

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

817 [~~(20)~~] (21) "Tobacco retailer" means:

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

819 (b) a retail tobacco specialty business.

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

821 **76-10-113 . Prohibition on distribution of flavored electronic cigarette products**

822 **-- Prohibition of electronic cigarette products without federal authorization.**

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

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

829 (3) Beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer
830 for sale, or furnish to any person an electronic cigarette product that is not a premarket
831 authorized or pending electronic cigarette product.

832 [~~(2)~~] (4) An individual who violates this section is guilty of:

833 (a) a class C misdemeanor for the first offense; and

834 (b) a class B misdemeanor for any subsequent offense.

835 Section 9. **Effective date.**

836 This bill takes effect on July 1, 2024.