

1                   **TOBACCO AND ELECTRONIC CIGARETTE AMENDMENTS**

2   2020 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Jon Hawkins**

5                                   Senate Sponsor: Kirk A. Cullimore

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7   **LONG TITLE**

8   **General Description:**

9           This bill amends provisions related to tobacco products and electronic cigarettes.

10   **Highlighted Provisions:**

11           This bill:

- 12           ▶ defines terms related to electronic cigarettes and tobacco retailers;
- 13           ▶ modifies the definition of a retail tobacco specialty business to include a business
- 14   that appears to be a retail tobacco specialty business or sells a flavored electronic
- 15   cigarette product;
- 16           ▶ amends permit violations for tobacco retailers;
- 17           ▶ creates requirements regarding verification of age for retail tobacco specialty
- 18   businesses;
- 19           ▶ modifies and places sunset provisions on dates from which laws are applicable to
- 20   retail tobacco specialty businesses;
- 21           ▶ authorizes regulation and testing of manufacturer sealed electronic substances;
- 22           ▶ requires a tobacco retailer to maintain certain records;
- 23           ▶ provides that a retail tobacco specialty shop may not be located within 1,000 feet of
- 24   a school;
- 25           ▶ creates civil penalties for a retail tobacco specialty business that allows an
- 26   individual under 21 years old in certain circumstances to gain access to the premises
- 27   of the business or to purchase a tobacco product or an electronic cigarette product;
- 28           ▶ increases the minimum age for obtaining, possessing, using, providing, or
- 29   furnishing tobacco products and paraphernalia and electronic cigarette products to

- 30 21 years old;
- 31       ▶ prohibits a manufacturer, wholesaler, or retailer from providing certain discounts or
- 32 giveaways for electronic cigarette products and tobacco products;
- 33       ▶ prohibits a general tobacco retailer from selling, providing, or distributing a
- 34 flavored electronic cigarette product;
- 35       ▶ makes it a crime to fraudulently use or transfer proof of age to gain access to a retail
- 36 tobacco specialty business or to purchase a tobacco product or electronic cigarette
- 37 product;
- 38       ▶ makes it a crime for an employee of a retail tobacco specialty business to allow an
- 39 individual under 21 years old to purchase a tobacco product or an electronic
- 40 cigarette product;
- 41       ▶ preempts certain ordinances, rules, and regulations on tobacco products, electronic
- 42 cigarette products, and tobacco paraphernalia;
- 43       ▶ amends the number of times that a peace officer must conduct an investigation of a
- 44 retail shop for underage tobacco sales; and
- 45       ▶ makes technical and conforming changes.

46 **Money Appropriated in this Bill:**

47       None

48 **Other Special Clauses:**

49       This bill provides a special effective date.

50       This bill provides a coordination clause.

51 **Utah Code Sections Affected:**

52 AMENDS:

53       **10-8-41.6**, as last amended by Laws of Utah 2018, Chapter 231

54       **10-8-47 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

55       **17-50-333**, as last amended by Laws of Utah 2018, Chapter 231

56       **26-57-103**, as enacted by Laws of Utah 2015, Chapter 132

57       **26-62-102**, as renumbered and amended by Laws of Utah 2018, Chapter 231

58           **26-62-205 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
59           **26-62-304 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
60           **26-62-305 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
61           **51-9-203 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapters 136  
62 and 232  
63           **53-3-229**, as last amended by Laws of Utah 2010, Chapters 114 and 276  
64           **53-3-810**, as last amended by Laws of Utah 2010, Chapters 114 and 276  
65           **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293  
66           **59-14-703 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
67           **63I-1-210**, as last amended by Laws of Utah 2018, Chapter 236  
68           **63I-1-217**, as last amended by Laws of Utah 2018, Chapters 236 and 347  
69           **76-8-311.3**, as last amended by Laws of Utah 2010, Chapter 114  
70           **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended  
71 by Coordination Clause, Laws of Utah 2015, Chapter 132  
72           **76-10-103 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
73           **76-10-104 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
74           **76-10-104.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
75           **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
76           **76-10-105.1 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
77           **76-10-111**, as last amended by Laws of Utah 2010, Chapter 114  
78           **76-10-112**, as enacted by Laws of Utah 1989, Chapter 193  
79           **77-39-101 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

80 ENACTS:

81           **26-62-206**, Utah Code Annotated 1953  
82           **26-62-401**, Utah Code Annotated 1953  
83           **26-62-402**, Utah Code Annotated 1953  
84           **76-10-113**, Utah Code Annotated 1953  
85           **76-10-114**, Utah Code Annotated 1953

86 76-10-115, Utah Code Annotated 1953

87 76-10-116, Utah Code Annotated 1953

88 Utah Code Sections Affected by Coordination Clause:

89 10-8-41.6, as last amended by Laws of Utah 2018, Chapter 231

90 17-50-333, as last amended by Laws of Utah 2018, Chapter 231

91 26-62-305, as last amended by Laws of Utah 2019, Chapter 232

92 76-10-111, as last amended by Laws of Utah 2010, Chapter 114



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

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

96 **10-8-41.6. Regulation of retail tobacco specialty business.**

97 (1) As used in this section:

98 (a) "Community location" means:

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

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

101 (iii) a trade or technical school;

102 (iv) a church;

103 (v) a public library;

104 (vi) a public playground;

105 (vii) a public park;

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

107 (ix) a public recreational facility;

108 (x) a public arcade; or

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

110 (b) "Department" means the Department of Health, created in Section 26-1-4.

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

112 76-10-101.

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

114 Section 76-10-101.

115 ~~[(e)]~~ (e) "Local health department" means the same as that term is defined in Section  
116 26A-1-102.

117 ~~[(d)]~~ (f) "Permittee" means a person licensed under this section to conduct business as  
118 a retail tobacco specialty business.

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

121 (i) the sale of tobacco products and electronic cigarette products accounts for more  
122 than 35% of the total quarterly gross receipts for the establishment;

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

125 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of  
126 tobacco products or electronic cigarette products; ~~[or]~~

127 (iv) the commercial establishment:

128 (A) holds itself out as a retail tobacco specialty business; and

129 (B) causes a reasonable person to believe the commercial establishment is a retail  
130 tobacco specialty business;

131 (v) any flavored electronic cigarette product is sold; or

132 ~~[(iv)]~~ (vi) the retail space features a self-service display for tobacco products or  
133 electronic cigarette products.

134 ~~[(f)]~~ (h) "Self-service display" means the same as that term is defined in Section  
135 76-10-105.1.

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

137 (i) the same as that term is defined in Section 76-10-101; or

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

139 ~~[(i) any cigar, cigarette, or electronic cigarette, as those terms are defined in Section~~  
140 ~~76-10-101;~~

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

142           ~~[(A) chewing tobacco; or]~~  
143           ~~[(B) any substitute for a tobacco product, including flavoring or additives to tobacco;~~  
144 ~~and]~~  
145           ~~[(iii) tobacco paraphernalia, as that term is defined in Section 76-10-104.1.]~~

146           (2) The regulation of a retail tobacco specialty business is an exercise of the police  
147 powers of the state~~[, and through delegation,]~~ by the state or by delegation of the state's police  
148 powers to other governmental entities.

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

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

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

- 157           (i) 1,000 feet of a community location;
- 158           (ii) 600 feet of another retail tobacco specialty business; or
- 159           (iii) 600 feet from property used or zoned for:
  - 160           (A) agriculture use; or
  - 161           (B) residential use.

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

166           (5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a municipality  
167 may not issue or renew a license for a person to conduct business as a retail tobacco specialty  
168 business until the person provides the municipality with proof that the retail tobacco specialty  
169 business has:

170 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter  
171 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in  
172 which the retail tobacco specialty business is located; and

173 (ii) a valid license to sell tobacco products from the State Tax Commission.

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

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

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

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

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

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

186 (ii) if a licensee violates [~~the regulations~~] federal law or federal regulations restricting  
187 the sale and distribution of [~~cigarettes and smokeless tobacco~~] tobacco products or electronic  
188 cigarette products to protect children and adolescents [~~issued by the United States Food and~~  
189 ~~Drug Administration, 21 C.F.R. Part 1140~~];

190 (iii) upon the recommendation of the department or a local health department under  
191 Title 26, Chapter 62, Tobacco Retail Permit; or

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

193 (7) (a) [~~In accordance with Subsection (7)(b)~~] Except as provided in Subsection (8), a  
194 retail tobacco specialty business that has a business license and is operating in a municipality in  
195 accordance with all applicable laws except for the requirement in Subsection (4), on or before  
196 December 31, [2015] 2018, is exempt from Subsection (4).

197 (b) A retail tobacco specialty business may maintain an exemption under Subsection

198 (7)(a) if:

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

201 (ii) the retail tobacco specialty business does not close for business or otherwise  
202 suspend the sale of tobacco products for more than 60 consecutive days;

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

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

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

208 (B) zoning ordinances;

209 (C) building codes; and

210 (D) the requirements of a retail tobacco specialty business license issued before  
211 December 31, [~~2015~~] 2018.

212 (8) Beginning August 15, 2020, a retail tobacco specialty business that has a business  
213 license and is operating in a municipality may not be located within 1,000 feet of any school.

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

215 **10-8-47 (Effective 07/01/20). Intoxication -- Fights -- Disorderly conduct --**

216 **Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and**

217 **fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to**

218 **minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or**

219 **drug addicts.**

220 (1) A municipal legislative body may:

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

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



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

228 (d) provide against and prevent the offense of obtaining money or property under false  
229 pretenses and the offense of embezzling money or property in the cases when the money or  
230 property embezzled or obtained under false pretenses does not exceed in value the sum of  
231 \$500;

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

234 (f) prohibit the sale, giving away, or furnishing of [~~tobacco or e-cigarettes~~] a tobacco  
235 product or an electronic cigarette product, as those terms are defined in Section [76-10-101](#), to  
236 an individual younger than[~~:(i) beginning July 1, 2020, and ending June 30, 2021, 20 years~~  
237 ~~old; and (ii) beginning July 1, 2021;~~] 21 years old.

238 (2) A city may:

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

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

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

247 **17-50-333. Regulation of retail tobacco specialty business.**

248 (1) As used in this section:

249 (a) "Community location" means:

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

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

252 (iii) a trade or technical school;

253 (iv) a church;

- 254 (v) a public library;
- 255 (vi) a public playground;
- 256 (vii) a public park;
- 257 (viii) a youth center or other space used primarily for youth oriented activities;
- 258 (ix) a public recreational facility;
- 259 (x) a public arcade; or
- 260 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 261 (b) "Department" means the Department of Health, created in Section [26-1-4](#).
- 262 (c) "Electronic cigarette product" means the same as that term is defined in Section
- 263 [76-10-101](#).
- 264 (d) "Flavored electronic cigarette product" means the same as that term is defined in
- 265 [Section 76-10-101](#).
- 266 [~~(e)~~] (e) "Licensee" means a person licensed under this section to conduct business as a
- 267 retail tobacco specialty business.
- 268 [~~(f)~~] (f) "Local health department" means the same as that term is defined in Section
- 269 [26A-1-102](#).
- 270 [~~(g)~~] (g) "Retail tobacco specialty business" means a commercial establishment in
- 271 which:
- 272 (i) the sale of tobacco products and electronic cigarette products accounts for more
- 273 than 35% of the total quarterly gross receipts for the establishment;
- 274 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 275 storage of tobacco products or electronic cigarette products;
- 276 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
- 277 tobacco products or electronic cigarette products; [~~or~~]
- 278 (iv) the commercial establishment:
- 279 (A) holds itself out as a retail tobacco specialty business; and
- 280 (B) causes a reasonable person to believe the commercial establishment is a retail
- 281 tobacco specialty business;

282           (v) any flavored electronic cigarette product is sold; or  
283           ~~[(iv)]~~ (vi) the retail space features a self-service display for tobacco products or  
284 electronic cigarette products.  
285           ~~[(f)]~~ (h) "Self-service display" means the same as that term is defined in Section  
286 ~~76-10-105.1.~~  
287           ~~[(g)]~~ (i) "Tobacco product" means:  
288           (i) the same as that term is defined in Section ~~76-10-101~~; or  
289           (ii) tobacco paraphernalia as defined in Section 76-10-101.  
290           ~~[(i) any cigar, cigarette, or electronic cigarette as those terms are defined in Section~~  
291 ~~76-10-101;]~~  
292           ~~[(ii) a tobacco product as that term is defined in Section 59-14-102, including:]~~  
293           ~~[(A) chewing tobacco; or]~~  
294           ~~[(B) any substitute for a tobacco product, including flavoring or additives to tobacco;~~  
295 ~~and]~~  
296           ~~[(iii) tobacco paraphernalia as that term is defined in Section 76-10-104.1.]~~  
297           (2) The regulation of a retail tobacco specialty business is an exercise of the police  
298 powers of the state~~[, and through delegation,]~~ by the state or by the delegation of the state's  
299 police power to other governmental entities.  
300           (3) (a) A person may not operate a retail tobacco specialty business in a county unless  
301 the person obtains a license from the county in which the retail tobacco specialty business is  
302 located.  
303           (b) A county may only issue a retail tobacco specialty business license to a person if  
304 the person complies with the provisions of Subsections (4) and (5).  
305           (4) (a) Except as provided in Subsection (7), a county may not issue a license for a  
306 person to conduct business as a retail tobacco specialty business if the retail tobacco specialty  
307 business is located within:  
308           (i) 1,000 feet of a community location;  
309           (ii) 600 feet of another retail tobacco specialty business; or

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

311 (A) agriculture use; or

312 (B) residential use.

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

317 (5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a county may  
318 not issue or renew a license for a person to conduct business as a retail tobacco specialty  
319 business until the person provides the county with proof that the retail tobacco specialty  
320 business has:

321 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter  
322 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in  
323 which the retail tobacco specialty business is located; and

324 (ii) a valid license to sell tobacco products from the State Tax Commission.

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

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

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

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

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

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

336 (ii) if a licensee violates [~~the regulations~~] federal law or federal regulations restricting  
337 the sale and distribution of [~~cigarettes and smokeless tobacco~~] tobacco products or electronic

338 cigarette products to protect children and adolescents [~~issued by the United States Food and~~  
339 ~~Drug Administration, 21 C.F.R. Part 1140~~];

340 (iii) upon the recommendation of the department or a local health department under  
341 Title 26, Chapter 62, Tobacco Retail Permit; or

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

343 (7) (a) [~~In accordance with Subsection (7)(b)~~] Except as provided in Subsection (8), a  
344 retail tobacco specialty business that has a business license and is operating in a county in  
345 accordance with all applicable laws except for the requirement in Subsection (4), on or before  
346 December 31, [2015] 2018, is exempt from Subsection (4).

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

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

351 (ii) the retail tobacco specialty business does not close for business or otherwise  
352 suspend the sale of tobacco products for more than 60 consecutive days;

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

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

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

358 (B) zoning ordinances;

359 (C) building codes; and

360 (D) the requirements of a retail tobacco specialty business license issued before  
361 December 31, [2015] 2018.

362 (8) Beginning August 15, 2020, a retail tobacco specialty business that has a business  
363 license and is operating in a county may not be located within 1,000 feet of any school.

364 Section 4. Section **26-57-103** is amended to read:

365 **26-57-103. Electronic cigarette products -- Labeling -- Manufacturing and**

366 **quality control standards -- Advertising.**

367 (1) The department shall, in consultation with a local health department, as defined in  
368 Section [26A-1-102](#), and with input from members of the public, establish~~[, no later than~~  
369 ~~January 1, 2016,]~~ by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
370 Rulemaking Act, the standards for electronic cigarette substance:

- 371 (a) labeling;  
372 (b) nicotine content;  
373 (c) packaging; and  
374 (d) product quality.

375 ~~[(2) The standards established by the department under Subsection (1) do not apply to a~~  
376 ~~manufacturer sealed electronic cigarette substance.]~~

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

- 381 (a) labeling;  
382 (b) nicotine content;  
383 (c) packaging; and  
384 (d) product quality.

385 (3) (a) [Beginning on July 1, 2016, a] A person may not sell an electronic cigarette  
386 substance unless the electronic cigarette substance complies with the standards established by  
387 the department under Subsection (1).

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

391 (4) (a) [Beginning on July 1, 2016, a] A local health department may not enact a rule or  
392 regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or  
393 product quality that is not identical to the standards established by the department under

394 [~~Subsection (1)~~] Subsections (1) and (2).

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

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

399 (5) [~~Beginning on July 1, 2016, a~~] A person may not advertise an electronic cigarette  
400 product:

401 (a) as a tobacco cessation device;

402 (b) if the person is not licensed to sell an electronic cigarette product under Section  
403 [59-14-803](#); or

404 (c) during a period of time when the person's license to sell an electronic cigarette  
405 product under Section [59-14-803](#) has been suspended or revoked.

406 Section 5. Section **26-62-102** is amended to read:

407 **26-62-102. Definitions.**

408 As used in this chapter:

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

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

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

412 (2) "Electronic cigarette product" means the same as that term is defined in Section  
413 [76-10-101](#).

414 [~~(2)~~] (3) "Employee" means an employee of a tobacco retailer.

415 [~~(3)~~] (4) "Enforcing agency" means the state Department of Health, or any local health  
416 department enforcing the provisions of this chapter.

417 [~~(4)~~] (5) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco  
418 specialty business.

419 [~~(5)~~] (6) "Local health department" means the same as that term is defined in Section  
420 [26A-1-102](#).

421 (7) "Owner" means a person holding a 20% ownership interest in the business that is

422 required to obtain a permit under this chapter.

423 ~~[(6)]~~ (8) "Permit" means a tobacco retail permit issued under this chapter.

424 (9) (a) "Proof of age" means:

425 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification  
426 Card Act;

427 (ii) a valid identification that:

428 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,  
429 Part 8, Identification Card Act;

430 (B) is issued in accordance with the laws of a state other than Utah in which the  
431 identification is issued;

432 (C) includes date of birth; and

433 (D) has a picture affixed;

434 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform  
435 Driver License Act, or in accordance with the laws of the state in which the valid driver license  
436 is issued;

437 (iv) a valid United States military identification card that:

438 (A) includes date of birth; and

439 (B) has a picture affixed; or

440 (v) a valid passport.

441 (b) "Proof of age" does not include a valid driving privilege card issued in accordance  
442 with Section 53-3-207.

443 ~~[(7)]~~ (10) "Retail tobacco specialty business" means the same as that term is defined:

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

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

446 ~~[(8)]~~ (11) "Tax commission license" means a license issued by the State Tax  
447 Commission under:

448 (a) Section 59-14-201 to sell cigarettes at retail;

449 (b) Section 59-14-301 to sell tobacco products at retail; or



450 (c) Section [59-14-803](#) to sell an electronic cigarette product.

451 ~~[(9)]~~ (12) "Tobacco product" means:

452 (a) the same as that term is defined in Section [76-10-101](#); or

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

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

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

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

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

459 ~~or]~~

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

461 ~~[(10)]~~ (13) "Tobacco retailer" means a person that is required to obtain a tax  
 462 commission license.

463 Section 6. Section **26-62-205 (Effective 07/01/20)** is amended to read:

464 **26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty**  
 465 **business.**

466 A retail tobacco specialty business shall:

467 (1) electronically verify proof of age for any individual that enters the premises of the  
 468 business in accordance with Part 4, Proof of Age Requirements;

469 ~~[(1)]~~ (2) except as provided in Subsection [76-10-105.1\(4\)](#), prohibit any individual from  
 470 entering the business if the individual is~~[(a) beginning July 1, 2020, and ending June 30,~~  
 471 ~~2021, under 20 years old; and (b) beginning July 1, 2021,]~~ under 21 years old; and

472 ~~[(2)]~~ (3) prominently display at the retail tobacco specialty business a sign on the  
 473 public entrance of the business that communicates;

474 (a) the prohibition on the presence of an individual under 21 years old in a retail  
 475 tobacco specialty business in Subsection [76-10-105.1\(4\)](#); and

476 (b) the prohibition on the sale of tobacco products and electronic cigarette products to  
 477 an individual under 21 years old as described in Sections [76-10-104](#), [76-10-104.1](#), [76-10-105.1](#),

478 and [76-10-114](#).

479 Section 7. Section **26-62-206** is enacted to read:

480 **26-62-206. Permit requirements for the sale of tobacco products and electronic**  
481 **cigarette products.**

482 (1) A tobacco retailer shall:

483 (a) provide the customer with an itemized receipt for each sale of a tobacco product or  
484 an electronic cigarette product that separately identifies:

485 (i) the name of the tobacco product or the electronic cigarette product;

486 (ii) the amount charged for each tobacco product or electronic cigarette product; and

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

488 (b) maintain an itemized transaction log for each sale of a tobacco product or an  
489 electronic cigarette product that separately identifies:

490 (i) the name of the tobacco product or the electronic cigarette product;

491 (ii) the amount charged for each tobacco product or electronic cigarette product; and

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

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

494 (a) maintained for at least one year after the date of each transaction in the itemized  
495 transaction log; and

496 (b) made available to an enforcing agency or a peace officer at the request of the  
497 enforcing agency or the peace officer that is no less restrictive than the provisions in this part.

498 Section 8. Section **26-62-304 (Effective 07/01/20)** is amended to read:

499 **26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

500 (1) At a civil hearing conducted under Section [26-62-302](#), evidence of the final  
501 criminal conviction of a tobacco retailer or employee for violation of Section [~~76-10-104~~]  
502 [76-10-114](#) at the same location and within the same time period as the location and time period  
503 alleged in the civil hearing for violation of this chapter for sale of tobacco products to an  
504 individual under [~~the following ages~~] 21 years old is prima facie evidence of a violation of this  
505 chapter[:].

506 ~~[(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~  
507 ~~[(b) beginning July 1, 2021, under 21 years old.]~~

508 (2) If the tobacco retailer is convicted of violating Section ~~[76-10-104]~~ 76-10-114, the  
509 enforcing agency:

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

512 (b) may revoke or suspend a permit in accordance with Section 26-62-305 or  
513 26-62-402.

514 Section 9. Section **26-62-305 (Effective 07/01/20)** is amended to read:

515 **26-62-305 (Effective 07/01/20). Penalties.**

516 (1) (a) ~~If[, following an inspection by an enforcing agency, or an investigation or~~  
517 ~~issuance of a citation or information under Section 77-39-101,]~~ an enforcing agency determines  
518 that a person has violated the terms of a permit issued under this chapter, the enforcing agency  
519 may impose the penalties described in this section.

520 (b) If multiple violations are found in a single inspection by an enforcing agency or  
521 investigation~~[, only one violation shall count toward the penalties described in this section. (2)~~  
522 ~~(a) The administrative penalty for]~~ by a law enforcement agency under Section 77-39-101, the  
523 enforcing agency shall treat the multiple violations as one single violation under Subsections  
524 (2), (3), and (4).

525 (2) Except as provided in Subsection (3) and Section 26-62-402, if a violation is found  
526 in an inspection by an enforcing agency or an investigation by a law enforcement agency under  
527 Section 77-39-101, the enforcing agency shall:

528 (a) on a first violation at a retail location [is], impose a penalty of [not] no more than  
529 \$500[-];

530 (b) ~~[The administrative penalty for]~~ on a second violation at the same retail location  
531 that occurs within one year of a previous violation [is], impose a penalty of [not] no more than  
532 \$750[-];

533 (c) ~~[The administrative penalty for]~~ on a third [or subsequent] violation at the same

534 retail location that occurs within two years after two ~~[or more]~~ previous violations, ~~[is]~~ impose:  
535 (i) a suspension of the ~~[retail tobacco business]~~ permit for 30 consecutive business days  
536 within 60 days after the day on which the third ~~[or subsequent]~~ violation occurs; or  
537 (ii) a penalty of ~~[not]~~ no more than \$1,000[.]; and  
538 ~~[(3) The department or a local health department may:]~~  
539 ~~[(a) revoke a permit if a fourth violation occurs within two years of three previous~~  
540 ~~violations;]~~  
541 ~~[(b) in addition to a monetary penalty imposed under Subsection (2), suspend the~~  
542 ~~permit if the violation is due to a sale of tobacco products to an individual under:]~~  
543 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~  
544 ~~[(ii) beginning July 1, 2021, 21 years old; and]~~  
545 ~~[(c) if applicable, recommend to a municipality or county that a retail tobacco specialty~~  
546 ~~business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.]~~  
547 (d) on a fourth or subsequent violation within two years of three previous violations:  
548 (i) impose a penalty of no more than \$1,000;  
549 (ii) revoke a permit of the retailer; and  
550 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty  
551 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.  
552 (3) If a violation is found in an investigation of a general tobacco retailer by a law  
553 enforcement agency under Section 77-39-101 for the sale of a tobacco product or an electronic  
554 cigarette product to an individual under 21 years old and the violation is committed by the  
555 owner of the general tobacco retailer, the enforcing agency shall:  
556 (a) on a first violation, impose a fine of no more than \$2,000 on the general tobacco  
557 retailer; and  
558 (b) on the second violation for the same general tobacco retailer within one year of the  
559 first violation:  
560 (i) impose a fine not exceeding \$5,000; and  
561 (ii) revoke the permit for the general tobacco retailer.

562 (4) If a violation is found in an investigation of a retail tobacco specialty business by a  
563 law enforcement agency under Section 77-39-101 for the sale of a tobacco product or an  
564 electronic cigarette product to an individual under 21 years old, the enforcing agency shall  
565 apply the provisions of Section 26-62-402.

566 [~~4~~] (5) (a) Except when a transfer described in Subsection [~~5~~] (6) occurs, a local  
567 health department may not issue a permit to:

568 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2)  
569 or (3) or Section 26-62-402; or

570 (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner,  
571 or other holder of significant interest as another tobacco retailer for whom a permit is  
572 suspended or revoked under Subsection (2) or (3) or Section 26-62-402.

573 (b) A person whose permit:

574 (i) is suspended under this section may not apply for a new permit for any other  
575 tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends  
576 the permit; and

577 (ii) is revoked under this section or Section 26-62-402 may not apply for a new permit  
578 for any tobacco retailer for a period of 24 months after the day on which an enforcing agency  
579 revokes the permit.

580 [~~5~~] (6) Violations of this chapter, Section 10-8-41.6, [~~or~~] Section 17-50-333, or  
581 Section 26-62-402 that occur at a tobacco retailer location shall stay on the record for that  
582 tobacco retailer location unless:

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

584 (b) the new proprietor provides documentation to the local health department that the  
585 new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous  
586 proprietor.

587 Section 10. Section 26-62-401 is enacted to read:

588 **Part 4. Proof of Age Requirements**

589 **26-62-401. Verification of proof of age.**

590 (1) As used in this section:

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

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

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

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

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

598 (b) verify the validity of the proof of age electronically in accordance with Subsection  
599 (4).

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

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

604 (b) Information obtained under this section:

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

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

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

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

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

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

614 (i) the individual is accompanied by a parent or legal guardian who provides proof of  
615 age; or

616 (ii) the individual is present at the retail tobacco specialty shop for a bona fide  
617 commercial purpose other than to purchase a tobacco product or an electronic cigarette product.

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

- 621 (a) an employee;
- 622 (b) a peace officer; or
- 623 (c) a representative of an enforcing agency.

624 Section 11. Section **26-62-402** is enacted to read:

625 **26-62-402. Penalties.**

626 (1) Except as provided in Subsection (2), if a violation of this part is found in an  
627 investigation of a retail tobacco specialty business by a law enforcement agency under Section  
628 77-39-101, the enforcing agency shall:

629 (a) on a first violation, impose a penalty of no more than \$500 on the retail tobacco  
630 specialty business;

631 (b) on a second violation for the same retail tobacco specialty business that occurs  
632 within one year of a previous violation, impose a penalty of no more than \$750;

633 (c) on a third violation for the same retail tobacco specialty business that occurs within  
634 two years of the two previous violations, impose:

635 (i) a suspension of the permit for 30 consecutive business days within 60 days after the  
636 day on which the third violation occurs; or

637 (ii) a penalty of no more than \$1,000; and

638 (d) on a fourth or subsequent violation within two years of the three previous  
639 violations:

640 (i) impose a penalty of no more than \$1,000;

641 (ii) revoke the permit of the retail tobacco specialty business; and

642 (iii) recommend to a municipality or county that a retail tobacco specialty business  
643 license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

644 (2) If a violation of this part is committed by the owner and is found in an investigation  
645 of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101,

646 the enforcing agency shall:

647 (a) on a first violation, impose a fine not exceeding \$2,000; and

648 (b) on a second violation at the same retail tobacco specialty business within one year

649 of the first violation:

650 (i) impose a fine not exceeding \$5,000;

651 (ii) revoke the retail tobacco specialty business's permit; and

652 (iii) recommend to a municipality or county that the retail tobacco specialty license

653 issued under Section 10-8-41.6 or 17-50-333 to the retail tobacco specialty business be

654 suspended or revoked.

655 (3) If multiple violations are found in a single investigation by a law enforcement

656 agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as a

657 single violation.

658 Section 12. Section **51-9-203 (Effective 07/01/20)** is amended to read:

659 **51-9-203 (Effective 07/01/20). Requirements for tobacco and electronic cigarette**

660 **programs.**

661 (1) To be eligible to receive funding under this part for a tobacco prevention, reduction,

662 cessation, or control program, an organization, whether private, governmental, or

663 quasi-governmental, shall:

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

665 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate

666 sound management and periodic evaluation of the campaign's relevance to the intended

667 audience, particularly in campaigns directed toward youth, including audience awareness of the

668 campaign and recollection of the main message;

669 (ii) for school-based education programs to prevent and reduce youth smoking, the

670 request shall describe how the program will be effective in preventing and reducing youth

671 smoking;

672 (iii) for community-based programs to prevent and reduce smoking, the request shall

673 demonstrate that the proposed program:



- 674 (A) has a comprehensive strategy with a clear mission and goals;
- 675 (B) provides for committed, caring, and professional leadership; and
- 676 (C) if directed toward youth:
  - 677 (I) offers youth-centered activities in youth accessible facilities;
  - 678 (II) is culturally sensitive, inclusive, and diverse;
  - 679 (III) involves youth in the planning, delivery, and evaluation of services that affect
  - 680 them; and
  - 681 (IV) offers a positive focus that is inclusive of all youth; and
- 682 (iv) for enforcement, control, and compliance program, the request shall demonstrate
- 683 that the proposed program can reasonably be expected to reduce the extent to which [~~tobacco~~
- 684 ~~products~~] tobacco products and electronic cigarette products, as those terms are defined in
- 685 Section 76-10-101, are available to individuals under [~~the following ages: (A) beginning July~~
- 686 ~~1, 2020, and ending June 30, 2021, 20 years old; and (B) beginning July 1, 2021,] 21 years~~
- 687 old;
- 688 (b) agree, by contract, to file an annual written report with the Department of Health
- 689 that contains the following:
  - 690 (i) the amount funded;
  - 691 (ii) the amount expended;
  - 692 (iii) a description of the program or campaign and the number of adults and youth who
  - 693 participated;
  - 694 (iv) specific elements of the program or campaign meeting the applicable criteria set
  - 695 forth in Subsection (1)(a); and
  - 696 (v) a statement concerning the success and effectiveness of the program or campaign;
- 697 (c) agree, by contract, to not use any funds received under this part directly or
- 698 indirectly, to:
  - 699 (i) engage in any lobbying or political activity, including the support of, or opposition
  - 700 to, candidates, ballot questions, referenda, or similar activities; or
  - 701 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to

702 enforce:

- 703 (A) the provisions of the Master Settlement Agreement;
- 704 (B) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 705 (C) Title 26, Chapter 62, Part 3, Enforcement; and
- 706 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and
- 707 (d) agree, by contract, to repay the funds provided under this part if the organization:
  - 708 (i) fails to file a timely report as required by Subsection (1)(b); or
  - 709 (ii) uses any portion of the funds in violation of Subsection (1)(c).

710 (2) The Department of Health shall review and evaluate the success and effectiveness  
711 of any program or campaign that receives funding pursuant to a request submitted under  
712 Subsection (1). The review and evaluation:

- 713 (a) shall include a comparison of annual smoking trends;
- 714 (b) may be conducted by an independent evaluator; and
- 715 (c) may be paid for by funds appropriated from the account for that purpose.

716 (3) The Department of Health shall annually report to the Social Services  
717 Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).

718 (4) An organization that fails to comply with the contract requirements set forth in  
719 Subsection (1) shall:

- 720 (a) repay the state as provided in Subsection (1)(d); and
- 721 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.

722 (5) The attorney general shall be responsible for recovering funds that are required to  
723 be repaid to the state under this section.

724 (6) Nothing in this section may be construed as applying to funds that are not  
725 appropriated under this part.

726 Section 13. Section **53-3-229** is amended to read:

727 **53-3-229. Prohibited uses of license certificate -- Penalty.**

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

- 729 (a) lend or knowingly permit the use of a license certificate issued to the [~~person~~]

- 730 individual, by ~~[a person]~~ another individual not entitled to ~~[it]~~ the license certificate;
- 731 (b) display or ~~[to]~~ represent as the ~~[person's]~~ individual's own license certificate a  
732 license certificate not issued to the ~~[person]~~ individual;
- 733 (c) refuse to surrender to the division or a peace officer upon demand any license  
734 certificate issued by the division;
- 735 (d) use a false name or give a false address in any application for a license or any  
736 renewal or duplicate of the license certificate, or to knowingly make a false statement, or to  
737 knowingly conceal a material fact or otherwise commit a fraud in the application;
- 738 (e) display a canceled, denied, revoked, suspended, or disqualified driver license  
739 certificate as a valid driver license certificate;
- 740 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic  
741 driver license certificate issued by a governmental entity if the item is not an authentic driver  
742 license certificate issued by that governmental entity; or
- 743 (g) alter any information on an authentic driver license certificate so that it no longer  
744 represents the information originally displayed.
- 745 (2) The provisions of Subsection (1)(e) do not prohibit the use of ~~[a person's]~~ an  
746 individual's driver license certificate as a means of personal identification.
- 747 (3) It is a class A misdemeanor to knowingly:
- 748 (a) issue a driver license certificate with false or fraudulent information;
- 749 (b) issue a driver license certificate to ~~[a person]~~ an individual who is younger than 21  
750 years ~~[of age]~~ old if the driver license certificate is not distinguished as required for ~~[a person]~~  
751 an individual who is younger than 21 years ~~[of age]~~ old under Section [53-3-207](#); or
- 752 (c) acquire, use, display, or transfer a false or altered driver license certificate to  
753 procure~~[-]~~ a tobacco product or an electronic cigarette product, as those terms are defined in  
754 Section [76-10-101](#).
- 755 ~~[(i) a cigarette;]~~
- 756 ~~[(ii) an electronic cigarette, as defined in Section [76-10-101](#);~~
- 757 ~~[(iii) tobacco; or]~~

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

759 (4) ~~[A person]~~ An individual may not use, display, or transfer a false or altered driver  
760 license certificate to procure alcoholic beverages, gain admittance to a place where alcoholic  
761 beverages are sold or consumed, or obtain employment that may not be obtained by a minor in  
762 violation of Section [32B-1-403](#).

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

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

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

768 Section 14. Section **53-3-810** is amended to read:

769 **53-3-810. Prohibited uses of identification card -- Penalties.**

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

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

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

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

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

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

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

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

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

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

788 (b) issue an identification card to ~~[any person]~~ an individual who is younger than 21

789 years ~~[of age]~~ old if the identification card is not distinguished as required for ~~[a person]~~ an

790 individual who is younger than 21 years ~~[of age]~~ old under Section 53-3-806; or

791 (c) acquire, use, display, or transfer a false or altered identification card to procure~~[:]~~ a

792 tobacco product or an electronic cigarette product, as those terms are defined in Section

793 76-10-101.

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

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

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

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

798 (3) ~~[A person]~~ An individual may not knowingly use, display, or transfer a false or

799 altered identification card to procure alcoholic beverages, gain admittance to a place where

800 alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a

801 minor in violation of Section 32B-1-403.

802 (4) It is a third degree felony if ~~[a person's]~~ an individual's acquisition, use, display, or

803 transfer of a false or altered identification card:

804 (a) aids or furthers the ~~[person's]~~ individual's efforts to fraudulently obtain goods or

805 services; or

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

807 Section 15. Section 53G-8-209 is amended to read:

808 **53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of**

809 **violations -- Limitation of liability.**

810 (1) The Legislature recognizes that:

811 (a) participation in student government and extracurricular activities may confer

812 important educational and lifetime benefits upon students, and encourages school districts and

813 charter schools to provide a variety of opportunities for all students to participate in such

814 activities in meaningful ways;

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

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

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

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

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

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

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

837 (ii) the illicit use, possession, or distribution of;

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

841 (B) a tobacco product or an electronic cigarette product, as those terms are defined in

842 Section 76-10-101; or

843 (C) an alcoholic beverage;

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

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

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

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

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

857 Section 16. Section 59-14-703 (Effective 07/01/20) is amended to read:

858 **59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine**  
859 **operators -- Renewal of certification -- Requirements for certification or renewal of**  
860 **certification -- Denial.**

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

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

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

865 or

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

867 (i) the cigarette rolling machine operator; or

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

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

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

874 (4) (a) A cigarette rolling machine operator shall apply to the commission for  
875 certification before the cigarette rolling machine operator performs an act described in  
876 Subsection (1) within the state for the first time.

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

879 (i) December 31 of each year; or

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

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

884 (a) identify:

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

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

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

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

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

894 (A) brand family listed on the commission's directory listing required by Section  
895 [59-14-603](#); and

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



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

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

904 (iv) the cigarettes produced from the cigarette rolling machine shall comply with Title  
905 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection  
906 Act;

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

910 (A) present at any time; or

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

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

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

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

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

918 [~~(7)~~] (6) If the commission determines that a cigarette rolling machine operator meets  
919 the requirements for certification or renewal of certification under this section, the commission  
920 shall grant the certification or renewal of certification.

921 [~~(8)~~] (7) If the commission determines that a cigarette rolling machine operator does  
922 not meet the requirements for certification or renewal of certification under this section, the  
923 commission shall:

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

925 (b) provide the cigarette rolling machine operator the grounds for denial of the

926 certification or renewal of certification in writing.

927 Section 17. Section **63I-1-210** is amended to read:

928 **63I-1-210. Repeal dates, Title 10.**

929 (1) Subsection 10-8-41.6(7), the language that states "December 31, 2018" is repealed  
930 July 1, 2022, and replaced with "December 31, 2015".

931 (2) Section 10-9a-526 is repealed December 31, 2020.

932 Section 18. Section **63I-1-217** is amended to read:

933 **63I-1-217. Repeal dates, Title 17.**

934 (1) Subsection 17-16-21(2)(d) is repealed July 1, 2023.

935 (2) Subsection 17-50-333(7), the language that states "December 31, 2018" is repealed  
936 July 1, 2022, and replaced with "December 31, 2015".

937 Section 19. Section **76-8-311.3** is amended to read:

938 **76-8-311.3. Items prohibited in correctional and mental health facilities --**

939 **Penalties.**

940 (1) As used in this section:

941 (a) "Contraband" means any item not specifically prohibited for possession by  
942 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

943 (b) "Controlled substance" means any substance defined as a controlled substance  
944 under Title 58, Chapter 37, Utah Controlled Substances Act.

945 (c) "Correctional facility" means:

946 (i) any facility operated by or contracting with the Department of Corrections to house  
947 offenders in either a secure or nonsecure setting;

948 (ii) any facility operated by a municipality or a county to house or detain criminal  
949 offenders;

950 (iii) any juvenile detention facility; and

951 (iv) any building or grounds appurtenant to the facility or lands granted to the state,  
952 municipality, or county for use as a correctional facility.

953 (d) "Electronic cigarette~~["is as]~~ product" means the same as that term is defined in

954 Section [76-10-101](#).

955 (e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b,  
956 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,  
957 Chapter 37, Utah Controlled Substances Act.

958 (f) "Mental health facility" is as defined in Section [62A-15-602](#).

959 (g) "Offender" means a person in custody at a correctional facility.

960 (h) "Secure area" is as defined in Section [76-8-311.1](#).

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

962 (2) Notwithstanding Section [76-10-500](#), a correctional or mental health facility may  
963 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,  
964 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any  
965 quantity may be:

966 (a) transported to or upon a correctional or mental health facility;

967 (b) sold or given away at any correctional or mental health facility;

968 (c) given to or used by any offender at a correctional or mental health facility; or

969 (d) knowingly or intentionally possessed at a correctional or mental health facility.

970 (3) It is a defense to any prosecution under this section if the accused in committing the  
971 act made criminal by this section with respect to:

972 (a) a correctional facility operated by the Department of Corrections, acted in  
973 conformity with departmental rule or policy;

974 (b) a correctional facility operated by a municipality, acted in conformity with the  
975 policy of the municipality;

976 (c) a correctional facility operated by a county, acted in conformity with the policy of  
977 the county; or

978 (d) a mental health facility, acted in conformity with the policy of the mental health  
979 facility.

980 (4) (a) [~~Any person~~] An individual who transports to or upon a correctional facility, or  
981 into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or

982 implement of escape with intent to provide or sell it to any offender, is guilty of a second  
983 degree felony.

984 (b) [~~Any person~~] An individual who provides or sells to any offender at a correctional  
985 facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition,  
986 dangerous weapon, or implement of escape is guilty of a second degree felony.

987 (c) [~~Any~~] An offender who possesses at a correctional facility, or [~~any~~] a detainee who  
988 possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous  
989 weapon, or implement of escape is guilty of a second degree felony.

990 (d) [~~Any person~~] An individual who, without the permission of the authority operating  
991 the correctional facility or the secure area of a mental health facility, knowingly possesses at a  
992 correctional facility or a secure area of a mental health facility any firearm, ammunition,  
993 dangerous weapon, or implement of escape is guilty of a third degree felony.

994 (e) [~~Any person~~] An individual violates Section 76-10-306 who knowingly or  
995 intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or  
996 mental health facility.

997 (5) (a) [~~A person~~] An individual is guilty of a third degree felony who, without the  
998 permission of the authority operating the correctional facility or secure area of a mental health  
999 facility, knowingly transports to or upon a correctional facility or into a secure area of a mental  
1000 health facility any:

- 1001 (i) spirituous or fermented liquor;
- 1002 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 1003 (iii) poison in any quantity.

1004 (b) [~~A person~~] An individual is guilty of a third degree felony who knowingly violates  
1005 correctional or mental health facility policy or rule by providing or selling to any offender at a  
1006 correctional facility or detainee within a secure area of a mental health facility any:

- 1007 (i) spirituous or fermented liquor;
- 1008 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 1009 (iii) poison in any quantity.

1010 (c) An inmate is guilty of a third degree felony who, in violation of correctional or  
1011 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a  
1012 mental health facility any:

1013 (i) spirituous or fermented liquor;

1014 (ii) medicine, other than medicine provided by the facility's health care providers in  
1015 compliance with facility policy; or

1016 (iii) poison in any quantity.

1017 (d) ~~[A person]~~ An individual is guilty of a class A misdemeanor who, with the intent to  
1018 directly or indirectly provide or sell any tobacco product or electronic cigarette product to an  
1019 offender, directly or indirectly:

1020 (i) transports, delivers, or distributes any tobacco product or electronic cigarette  
1021 product to an offender or on the grounds of any correctional facility;

1022 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another  
1023 person to transport any tobacco product or electronic cigarette product to an offender or on any  
1024 correctional facility, if the person is acting with the mental state required for the commission of  
1025 an offense; or

1026 (iii) facilitates, arranges, or causes the transport of any tobacco product or electronic  
1027 cigarette product in violation of this section to an offender or on the grounds of any  
1028 correctional facility.

1029 (e) ~~[A person]~~ An individual is guilty of a class A misdemeanor who, without the  
1030 permission of the authority operating the correctional or mental health facility, fails to declare  
1031 or knowingly possesses at a correctional facility or in a secure area of a mental health facility  
1032 any:

1033 (i) spirituous or fermented liquor;

1034 (ii) medicine; or

1035 (iii) poison in any quantity.

1036 (f) ~~[A person]~~ An individual is guilty of a class B misdemeanor who, without the  
1037 permission of the authority operating the correctional facility, knowingly engages in any

1038 activity that would facilitate the possession of any contraband by an offender in a correctional  
1039 facility. The provisions of Subsection (5)(d) regarding any tobacco product or electronic  
1040 cigarette product take precedence over this Subsection (5)(f).

1041 (g) Exemptions may be granted for worship for Native American inmates pursuant to  
1042 Section ~~64-13-40~~.

1043 (6) The possession, distribution, or use of a controlled substance at a correctional  
1044 facility or in a secure area of a mental health facility shall be prosecuted in accordance with  
1045 Title 58, Chapter 37, Utah Controlled Substances Act.

1046 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative  
1047 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing  
1048 any tobacco product or electronic cigarette product to offenders is a class A misdemeanor.

1049 Section 20. Section ~~76-10-101~~ is amended to read:

1050 **~~76-10-101. Definitions.~~**

1051 As used in this part:

1052 (1) "Cigar" means a product that contains nicotine, is intended to be burned under  
1053 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in  
1054 any substance containing tobacco, other than any roll of tobacco that is a cigarette as described  
1055 in Subsection (2).

1056 (2) "Cigarette" means a product that contains nicotine, is intended to be burned under  
1057 ordinary conditions of use, and consists of:

1058 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

1059 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of  
1060 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to  
1061 be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

1062 [~~(3) "Electronic cigarette" means an electronic cigarette product, as defined in Section~~  
1063 ~~59-14-802.~~]

1064 (3) (a) "Electronic cigarette" means:

1065 (i) any electronic oral device:

- 1066 (A) that provides an aerosol or a vapor of nicotine or other substance; and  
1067 (B) which simulates smoking through the use or inhalation of the device;  
1068 (ii) a component of the device described in Subsection (3)(a)(i); and  
1069 (iii) an accessory sold in the same package as the device described in Subsection  
1070 (3)(a)(i).
- 1071 (b) "Electronic cigarette" includes an oral device that is:  
1072 (i) composed of a heating element, battery, or electronic circuit; and  
1073 (ii) marketed, manufactured, distributed, or sold as:  
1074 (A) an e-cigarette;  
1075 (B) an e-cigar;  
1076 (C) an e-pipe; or  
1077 (D) any other product name or descriptor, if the function of the product meets the  
1078 definition of Subsection (3)(a).
- 1079 (4) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette  
1080 substance, or a prefilled electronic cigarette.
- 1081 (5) "Electronic cigarette substance" means any substance, including liquid containing  
1082 nicotine, used or intended for use in an electronic cigarette.
- 1083 (6) (a) "Flavored electronic cigarette product" means an electronic cigarette product  
1084 that has a taste or smell that is distinguishable by an ordinary consumer either before or during  
1085 use or consumption of the electronic cigarette product.
- 1086 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that  
1087 has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic  
1088 beverage, herb, or spice.
- 1089 (c) "Flavored electronic cigarette product" does not include an electronic cigarette  
1090 product that:  
1091 (i) has a taste or smell of only tobacco, mint, or menthol; or  
1092 (ii) has been approved by an order granting a premarket tobacco product application of  
1093 the electronic cigarette product by the United States Food and Drug Administration under 21

1094 U.S.C. Sec. 387j(c)(1)(A)(i).

1095 [~~4~~] (7) "Place of business" includes:

1096 (a) a shop;

1097 (b) a store;

1098 (c) a factory;

1099 (d) a public garage;

1100 (e) an office;

1101 (f) a theater;

1102 (g) a recreation hall;

1103 (h) a dance hall;

1104 (i) a poolroom;

1105 (j) a café;

1106 (k) a cafeteria;

1107 (l) a cabaret;

1108 (m) a restaurant;

1109 (n) a hotel;

1110 (o) a lodging house;

1111 (p) a streetcar;

1112 (q) a bus;

1113 (r) an interurban or railway passenger coach;

1114 (s) a waiting room; and

1115 (t) any other place of business.

1116 (8) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled

1117 with an electronic cigarette substance.

1118 (9) "Retail tobacco specialty business" means the same as that term is defined in

1119 Section 26-62-102.

1120 [~~5~~] (10) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other

1121 lighted smoking equipment.



1122 (11) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind  
1123 that is used, intended for use, or designed for use to package, repack, store, contain,  
1124 conceal, ingest, inhale, or otherwise introduce a tobacco product or an electronic cigarette  
1125 substance into the human body.

1126 (b) "Tobacco paraphernalia" includes:

1127 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without  
1128 screens, permanent screens, hashish heads, or punctured metal bowls;

1129 (ii) water pipes;

1130 (iii) carburetion tubes and devices;

1131 (iv) smoking and carburetion masks;

1132 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that  
1133 has become too small or too short to be held in the hand;

1134 (vi) chamber pipes;

1135 (vii) carburetor pipes;

1136 (viii) electric pipes;

1137 (ix) air-driven pipes;

1138 (x) chillums;

1139 (xi) bongs; and

1140 (xii) ice pipes or chillers.

1141 (c) "Tobacco paraphernalia" does not include matches or lighters.

1142 (12) "Tobacco product" means:

1143 (a) a cigar;

1144 (b) a cigarette; and

1145 (c) tobacco in any form, including:

1146 (i) chewing tobacco; and

1147 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

1148 (13) "Tobacco retailer" means:

1149 (a) a general tobacco retailer, as that term is defined in Section [26-62-102](#); and

1150 (b) a retail tobacco specialty business.

1151 Section 21. Section **76-10-103 (Effective 07/01/20)** is amended to read:

1152 **76-10-103 (Effective 07/01/20). Permitting minors to use a tobacco product or an**  
1153 **electronic cigarette product in place of business.**

1154 It is a class C misdemeanor for the proprietor of any place of business to knowingly  
1155 permit an individual under [~~the following ages~~] 21 years old to frequent a place of business  
1156 while the individual is using [~~tobacco~~] a tobacco product or an electronic cigarette product.

1157 [~~(1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

1158 [~~(2) beginning July 1, 2021, under 21 years old.~~]

1159 Section 22. Section **76-10-104 (Effective 07/01/20)** is amended to read:

1160 **76-10-104 (Effective 07/01/20). Providing a tobacco product or electronic**  
1161 **cigarette product to a minor -- Penalties.**

1162 [~~(1) A person violates this section who knowingly, intentionally, recklessly, or with~~  
1163 ~~criminal negligence provides a cigar, cigarette, electronic cigarette, or tobacco in any form, to~~  
1164 ~~an individual under the following ages, is guilty of a class C misdemeanor on the first offense,~~  
1165 ~~a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent~~  
1166 ~~offenses:]~~

1167 [~~(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1168 [~~(b) beginning July 1, 2021, 21 years old.~~]

1169 [~~(2)~~] (1) As used in this section, "provides":

1170 (a) includes selling, giving, furnishing, sending, or causing to be sent; and

1171 (b) does not include the acts of the United States Postal Service or other common  
1172 carrier when engaged in the business of transporting and delivering packages for others or the  
1173 acts of a person, whether compensated or not, who transports or delivers a package for another  
1174 person without any reason to know of the package's content.

1175 (2) An individual who knowingly, intentionally, recklessly, or with criminal negligence  
1176 provides a tobacco product or an electronic cigarette product to an individual who is under 21  
1177 years old, is guilty of:

- 1178            (a) a class C misdemeanor on the first offense;
- 1179            (b) a class B misdemeanor on the second offense; and
- 1180            (c) a class A misdemeanor on any subsequent offense.
- 1181            (3) This section does not apply to conduct of an employee of a tobacco retailer that is a
- 1182 violation of Section [76-10-114](#).

Section 23. Section **76-10-104.1 (Effective 07/01/20)** is amended to read:

**76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to a minor --**

**Penalties.**

(1) [~~For purposes of this section: (a) "Provides"~~] As used in this section, "provides":

~~[(i)]~~ (a) includes selling, giving, furnishing, sending, or causing to be sent; and

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

~~[(b) "Tobacco paraphernalia":]~~

~~[(i) means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, including:]~~

~~[(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;]~~

~~[(B) water pipes;]~~

~~[(C) carburetion tubes and devices;]~~

~~[(D) smoking and carburetion masks;]~~

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

~~[(F) chamber pipes;]~~

~~[(G) carburetor pipes;]~~

~~[(H) electric pipes;]~~

1206 [~~(I) air-driven pipes;~~]

1207 [~~(J) chillums;~~]

1208 [~~(K) bongs; and~~]

1209 [~~(L) ice pipes or chillers; and~~]

1210 [~~(ii) does not include matches or lighters.~~]

1211 (2) (a) It is unlawful for ~~[a person]~~ an individual to knowingly, intentionally,  
 1212 recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under[:  
 1213 ~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1,~~  
 1214 ~~2021,~~] 21 years old.

1215 (b) ~~[A person]~~ An individual who violates this section is guilty of:

1216 (i) a class C misdemeanor on the first offense; and

1217 (ii) a class B misdemeanor on any subsequent ~~[offenses]~~ offense.

1218 Section 24. Section **76-10-105 (Effective 07/01/20)** is amended to read:

1219 **76-10-105 (Effective 07/01/20). Buying or possessing a tobacco product or an**  
 1220 **electronic cigarette product by a minor -- Penalty -- Compliance officer authority --**  
 1221 **Juvenile court jurisdiction.**

1222 (1) ~~[(a)]~~ An individual who is 18 years old or older, but younger than ~~[the age specified~~  
 1223 ~~in Subsection (1)(b)]~~ 21 years old, and who buys or attempts to buy, accepts, or has in the  
 1224 individual's possession ~~[any cigar, cigarette, electronic cigarette, or tobacco in any form]~~ a  
 1225 tobacco product or an electronic cigarette product is:

1226 (a) guilty of an infraction; and

1227 (b) subject to:

1228 (i) a minimum fine or penalty of \$60; and

1229 (ii) participation in a court-approved tobacco education or cessation program, which  
 1230 may include a participation fee.

1231 ~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

1232 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1233 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1234 (2) (a) An individual who is under [the age of] 18 years old and who buys or attempts  
 1235 to buy, accepts, or has in the individual's possession [any cigar, cigarette, electronic cigarette,  
 1236 or tobacco in any form] a tobacco product or an electronic cigarette product is subject to the  
 1237 jurisdiction of the juvenile court and subject to Section 78A-6-602, unless the violation is  
 1238 committed on school property.

1239 (b) If a violation under this section is adjudicated under Section 78A-6-117, the minor  
 1240 may be subject to the following:

1241 ~~[(a)]~~ (i) a fine or penalty, in accordance with Section 78A-6-117; and

1242 ~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may  
 1243 include a participation fee.

1244 (3) (a) A compliance officer appointed by a board of education under Section  
 1245 53G-4-402 may not issue a citation for a violation of this section committed on school  
 1246 property.

1247 (b) A cited violation committed on school property shall be addressed in accordance  
 1248 with Section 53G-8-211.

1249 ~~[(4)(a) This section does not apply to the purchase or possession of a cigar, cigarette,~~  
 1250 ~~electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older~~  
 1251 ~~and is:]~~

1252 ~~[(i) on active duty in the United States Armed Forces; or]~~

1253 ~~[(ii) a spouse or dependent of an individual who is on active duty in the United States~~  
 1254 ~~Armed Forces.]~~

1255 ~~[(b) A valid, government-issued military identification card is required to verify proof~~  
 1256 ~~of age under Subsection (4)(a).]~~

1257 Section 25. Section 76-10-105.1 (Effective 07/01/20) is amended to read:

1258 **76-10-105.1 (Effective 07/01/20). Requirement of direct, face-to-face sale of**  
 1259 **tobacco products and electronic cigarette products -- Minors not allowed in retail tobacco**  
 1260 **specialty business -- Penalties.**

1261 (1) As used in this section:

- 1262 ~~[(a) "Cigarette" means the same as that term is defined in Section 59-14-102.]~~
- 1263 ~~[(b)]~~ (a) (i) "Face-to-face exchange" means a transaction made in person between an  
1264 individual and a retailer or retailer's employee.
- 1265 (ii) "Face-to-face exchange" does not include a sale through a:
- 1266 (A) vending machine; or
- 1267 (B) self-service display.
- 1268 ~~[(c)]~~ (b) "Retailer" means a person who:
- 1269 (i) sells a ~~[cigarette, tobacco,]~~ tobacco product or an electronic cigarette product to an  
1270 individual for personal consumption; or
- 1271 (ii) operates a facility with a vending machine that sells a ~~[cigarette, tobacco,]~~ tobacco  
1272 product or an electronic cigarette product.
- 1273 ~~[(d)]~~ (c) "Self-service display" means a display of a ~~[cigarette, tobacco,]~~ tobacco  
1274 product or an electronic cigarette product to which the public has access without the  
1275 intervention of a retailer or retailer's employee.
- 1276 ~~[(e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.]~~
- 1277 ~~[(f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is~~  
1278 ~~defined:]~~
- 1279 ~~[(i) as it relates to a municipality, in Section 10-8-41.6; and]~~
- 1280 ~~[(ii) as it relates to a county, in Section 17-50-333.]~~
- 1281 (2) Except as provided in Subsection (3), a retailer may sell a ~~[cigarette, tobacco,]~~  
1282 tobacco product or an electronic cigarette product only in a face-to-face exchange.
- 1283 (3) The face-to-face sale requirement in Subsection (2) does not apply to:
- 1284 (a) a mail-order, telephone, or Internet sale made in compliance with Section  
1285 59-14-509;
- 1286 (b) a sale from a vending machine or self-service display that is located in an area of a  
1287 retailer's facility:
- 1288 (i) that is distinct and separate from the rest of the facility; and
- 1289 (ii) where the retailer only allows an individual who complies with Subsection (4) to be

1290 present; or

1291 (c) a sale at a retail tobacco specialty [shop] business.

1292 (4) [(a)] An individual who [~~is less than the age specified in Subsection (4)(b)] is under~~

1293 21 years old may not enter or be present at a [~~tobacco specialty shop~~] retail tobacco specialty

1294 business unless the individual is:

1295 [(i)] (a) accompanied by a parent or legal guardian;

1296 [(ii)] (b) present at the [~~tobacco shop~~] retail tobacco specialty business for a bona fide

1297 commercial purpose other than to purchase a [~~cigarette, tobacco,~~] tobacco product or an

1298 electronic cigarette[~~;~~ ~~or~~] product.

1299 [~~(iii) 18 years old or older and an active duty member of the United States Armed~~

1300 ~~Forces, as demonstrated by a valid, government-issued military identification card.]~~

1301 [(b) For purposes of Subsection (4)(a), the individual is younger than:]

1302 [(i) ~~beginning July 1, 2020, and ending June 30, 2021, 20 years old; and~~

1303 [(ii) ~~beginning July 1, 2021, 21 years old.~~]

1304 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)[(i)], an

1305 individual into an area described in Subsection (3)(b)[~~;~~] or into a [~~tobacco specialty shop~~] retail

1306 tobacco specialty business, may not allow the individual to purchase a [~~cigarette, tobacco,~~]

1307 tobacco product or an electronic cigarette product.

1308 (6) A violation of Subsection (2) or (4) is a:

1309 (a) class C misdemeanor on the first offense;

1310 (b) class B misdemeanor on the second offense; and

1311 (c) class A misdemeanor on [~~the third and all~~] any subsequent offenses.

1312 (7) An individual who violates Subsection (5) is guilty of [~~providing tobacco to a~~

1313 ~~minor~~] an offense under Section [76-10-104](#).

1314 [(8) (a) ~~An ordinance, regulation, or rule adopted by the governing body of a political~~

1315 ~~subdivision of the state or by a state agency that affects the sale, minimum age of sale,~~

1316 ~~placement, or display of cigarettes, tobacco, or electronic cigarettes that is not essentially~~

1317 ~~identical to this section and Section [76-10-102](#) is superseded.]~~

1318 ~~[(b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use~~  
1319 ~~ordinance by a municipal or county government.]~~

1320 Section 26. Section **76-10-111** is amended to read:

1321 **76-10-111. Prohibition of gift or free distribution of smokeless tobacco or**  
1322 **electronic cigarettes products -- Exceptions.**

1323 (1) The Legislature finds that:

1324 (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who  
1325 use ~~[those products]~~ smokeless tobacco because research indicates that ~~[they]~~ smokeless  
1326 tobacco may cause mouth or oral cancers;

1327 (b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

1328 (c) the use of electronic ~~[cigarettes]~~ cigarette products may lead to unhealthy behavior  
1329 such as the use of tobacco products; and

1330 (d) it is necessary to restrict the gift of the products described in this Subsection (1) in  
1331 the interest of the health of the citizens of this state.

1332 (2) (a) Except as provided in Subsection (3), it is unlawful for a manufacturer,  
1333 wholesaler, and retailer to:

1334 (i) give or distribute without charge any smokeless tobacco, chewing tobacco, or an  
1335 electronic cigarette product in this state~~[-];~~

1336 (ii) except as provided in Subsection (2)(b), sell, offer for sale, or furnish an electronic  
1337 cigarette product at less than the cost of the product to the manufacturer, wholesaler, or retailer;  
1338 or

1339 (iii) give, distribute, sell, offer for sale, or furnish an electronic cigarette product for  
1340 free or at a lower price because the purchaser makes another purchase.

1341 (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection  
1342 (2)(a)(ii) does not include a discount for:

1343 (i) a physical manufacturer coupon:

1344 (A) that is surrendered to the retailer at the time of sale; and

1345 (B) for which the manufacturer will reimburse the wholesaler or retailer for the full



1346 amount of the discount described in the manufacturer coupon and provided to the purchaser;

1347 (ii) a rebate that will be paid to the manufacturer, wholesaler, or retailer for the full  
 1348 amount of the rebate provided to the purchaser; or

1349 (iii) a promotional fund that will be paid to the manufacturer, wholesaler, or retailer for  
 1350 the full amount of the promotional fund to the purchaser.

1351 (3) [Any person] An individual who violates this section is guilty of:

1352 (a) a class C misdemeanor for the first offense[;]; and [is guilty of]

1353 (b) a class B misdemeanor for any subsequent offense.

1354 ~~[(3)]~~ (4) (a) Smokeless tobacco, chewing tobacco, or an electronic cigarette product  
 1355 may be distributed to [adults] an adult without charge at a professional [conventions]  
 1356 convention where the general public is excluded.

1357 ~~[(b) Subsection (2) does not apply to a retailer, manufacturer, or distributor who gives~~  
 1358 ~~smokeless tobacco, chewing tobacco, or an electronic cigarette to a person of legal age upon~~  
 1359 ~~the person's purchase of another tobacco product or electronic cigarette.]~~

1360 Section 27. Section **76-10-112** is amended to read:

1361 **76-10-112. Prohibition of distribution of a tobacco product -- Exceptions.**

1362 (1) Except as provided in Subsection ~~[(2)]~~ (3), it is unlawful for a manufacturer,  
 1363 wholesaler, or retailer to give or distribute ~~[cigarettes or other tobacco products]~~ a tobacco  
 1364 product in this state without charge.

1365 (2) [Any person] An individual who violates this subsection is guilty of:

1366 (a) a class C misdemeanor for the first offense; and

1367 (b) a class B misdemeanor for any subsequent offense.

1368 ~~[(2) Cigarettes and other tobacco products]~~

1369 (3) A tobacco product may be distributed to ~~[adults]~~ an adult without charge at a  
 1370 professional ~~[conventions]~~ convention where the general public is excluded.

1371 ~~[(3)]~~ (4) The prohibition described in Subsection (1) does not apply to ~~[retailers,~~  
 1372 ~~manufacturers, or distributors who give cigarettes or other tobacco products to persons of legal~~  
 1373 ~~age upon their purchase of cigarettes or other tobacco products]~~ a tobacco retailer, a

1374 manufacturer, or a distributor that gives a tobacco product to an individual who is 21 years old  
1375 or older upon the individual's purchase of a tobacco product.

1376 Section 28. Section **76-10-113** is enacted to read:

1377 **76-10-113. Prohibition on distribution of flavored electronic cigarette products.**

1378 (1) It is unlawful for a tobacco retailer that is not a retail tobacco specialty business to  
1379 give, distribute, sell, offer for sale, or furnish a flavored electronic cigarette product to any  
1380 person.

1381 (2) An individual who violates this section is guilty of:

1382 (a) a class C misdemeanor for the first offense; and

1383 (b) a class B misdemeanor for any subsequent offense.

1384 Section 29. Section **76-10-114** is enacted to read:

1385 **76-10-114. Unlawful sale of a tobacco product or electronic cigarette product.**

1386 (1) As used in this section:

1387 (a) "Compensatory service" means service or unpaid work performed by an employee,  
1388 in lieu of the payment of a fine or imprisonment.

1389 (b) "Employee" means an employee or an owner of a tobacco retailer.

1390 (2) It is unlawful for an employee to knowingly or intentionally sell or give a tobacco  
1391 product or an electronic cigarette product in the course of business to an individual who is  
1392 under 21 years old.

1393 (3) An employee who violates this section is:

1394 (a) on a first violation:

1395 (i) guilty of an infraction; and

1396 (ii) subject to:

1397 (A) a fine not exceeding \$1,000; or

1398 (B) compensatory service;

1399 (b) on any subsequent violation:

1400 (i) guilty of a class C misdemeanor; and

1401 (ii) subject to:

1402            (A) a fine not exceeding \$2,000; or  
1403            (B) compensatory service.  
1404            Section 30. Section **76-10-115** is enacted to read:  
1405            **76-10-115. Unlawful transfer or use of proof of age.**  
1406            (1) As used in this section:  
1407            (a) "Proof of age" means:  
1408            (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification  
1409 Card Act;  
1410            (ii) a valid identification that:  
1411            (A) is substantially similar to an identification card issued under Title 53, Chapter 3,  
1412 Part 8, Identification Card Act;  
1413            (B) is issued in accordance with the laws of a state other than Utah in which the  
1414 identification is issued;  
1415            (C) includes date of birth; and  
1416            (D) has a picture affixed;  
1417            (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform  
1418 Driver License Act, or in accordance with the laws of the state in which the valid driver license  
1419 is issued;  
1420            (iv) a valid United States military identification card that:  
1421            (A) includes date of birth; and  
1422            (B) has a picture affixed; or  
1423            (v) a valid passport.  
1424            (b) "Proof of age" does not include a driving privilege card issued in accordance with  
1425 Section [53-3-207](#).  
1426            (2) An individual who knowingly and intentionally transfers that individual's proof of  
1427 age to another individual to aid that individual in purchasing a tobacco product or an electronic  
1428 cigarette product, or in gaining admittance to any part of the premises of a retail tobacco  
1429 specialty business, is guilty of a class B misdemeanor.

1430           (3) An individual who knowingly and intentionally uses proof of age containing false  
1431 information with the intent to purchase a tobacco product or an electronic cigarette product, or  
1432 to gain admittance to any part of the premises of a retail tobacco specialty business, is guilty of  
1433 a class A misdemeanor.

1434           Section 31. Section **76-10-116** is enacted to read:

1435           **76-10-116. Ordinances, rules, and regulations.**

1436           (1) Except as provided in Subsection (2), an ordinance, rule, or regulation adopted by a  
1437 governing body of a political subdivision of the state or a state agency is superseded if:

1438           (a) the ordinance, rule, or regulation affects:

1439           (i) the minimum age of sale for a tobacco product, an electronic cigarette product, or  
1440 tobacco paraphernalia;

1441           (ii) the provision or sale of a tobacco product, an electronic cigarette product, or  
1442 tobacco paraphernalia;

1443           (iii) the flavoring of a tobacco product or an electronic cigarette product;

1444           (iv) the purchase or possession of a tobacco product, an electronic cigarette product, or  
1445 tobacco paraphernalia; or

1446           (v) the placement or display of a tobacco product or an electronic cigarette product;

1447 and

1448           (b) the ordinance, rule, or regulation is not essentially identical to any state statute  
1449 relating to the applicable subject described in Subsection (1)(a).

1450           (2) A governing body of a political subdivision of the state or a state agency may adopt  
1451 an ordinance, rule, or regulation on a subject described in Subsections (1)(a)(i) through (v) if  
1452 the governing body of a political subdivision of the state or a state agency is authorized by  
1453 statute to adopt the ordinance, rule, or regulation.

1454           (3) Subsection (1) does not apply to the adoption or enforcement of a land use  
1455 ordinance by a municipal or county government.

1456           Section 32. Section **77-39-101 (Effective 07/01/20)** is amended to read:

1457           **77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco products,**

1458 **and electronic cigarettes products to underage individuals.**

1459 (1) As used in this section~~["electronic cigarette" is as]~~:

1460 (a) "Electronic cigarette product" means the same as that term is defined in Section  
1461 76-10-101.

1462 (b) "Tobacco product" means the same as that term is defined in Section 76-10-101.

1463 (2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer  
1464 Classifications, may investigate the possible violation of:

1465 (i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and  
1466 attempt to purchase or make a purchase of alcohol from a retail establishment; or

1467 (ii) Section ~~[76-10-104]~~ 76-10-114 by requesting an individual under ~~[the age specified~~  
1468 ~~in Subsection (2)(e)]~~ 21 years old to enter into and attempt to purchase or make a purchase  
1469 from a retail establishment of:

1470 (A) a ~~[cigar]~~ tobacco product; or

1471 ~~[(B) a cigarette;]~~

1472 ~~[(C) tobacco in any form; or]~~

1473 ~~[(D)]~~ (B) an electronic cigarette product.

1474 (b) A peace officer who is present at the site of a proposed purchase shall direct,  
1475 supervise, and monitor the individual requested to make the purchase.

1476 (c) Immediately following a purchase or attempted purchase or as soon as practical the  
1477 supervising peace officer shall inform the cashier and the proprietor or manager of the retail  
1478 establishment that the attempted purchaser was under the legal age to purchase:

1479 (i) alcohol; or

1480 (ii) (A) a ~~[cigar]~~ tobacco product; or

1481 ~~[(B) a cigarette;]~~

1482 ~~[(C) tobacco in any form; or]~~

1483 ~~[(D)]~~ (B) an electronic cigarette product.

1484 (d) If a citation or information is issued, ~~[it]~~ the citation or information shall be issued  
1485 within seven days of the purchase.

1486 ~~[(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:]~~

1487 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

1488 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

1489 (3) (a) If an individual under ~~[the age of]~~ 18 years old is requested to attempt a  
1490 purchase, a written consent of that individual's parent or guardian shall be obtained prior to that  
1491 individual participating in any attempted purchase.

1492 (b) An individual requested by the peace officer to attempt a purchase may:

1493 (i) be a trained volunteer; or

1494 (ii) receive payment, but may not be paid based on the number of successful purchases  
1495 of alcohol, tobacco products, or ~~[an]~~ electronic cigarette products.

1496 (4) The individual requested by the peace officer to attempt a purchase and anyone  
1497 accompanying the individual attempting a purchase may not during the attempted purchase  
1498 misrepresent the age of the individual by false or misleading identification documentation in  
1499 attempting the purchase.

1500 (5) An individual requested to attempt to purchase or make a purchase pursuant to this  
1501 section is immune from prosecution, suit, or civil liability for the purchase of, attempted  
1502 purchase of, or possession of alcohol, a ~~[cigar, a cigarette, tobacco in any form]~~ tobacco  
1503 product, or an electronic cigarette product if a peace officer directs, supervises, and monitors  
1504 the individual.

1505 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section  
1506 shall be conducted~~[:]~~ within a 12-month period:

1507 ~~[(i) on a random basis; and]~~

1508 ~~[(ii) within a 12-month period at any one retail establishment location not more often~~  
1509 ~~than:]~~

1510 ~~[(A) two times for the attempted purchase of:]~~

1511 ~~[(I) a cigar;]~~

1512 ~~[(II) a cigarette;]~~

1513 ~~[(III) tobacco in any form; or]~~

1514           ~~[(IV) an electronic cigarette; and]~~  
1515           ~~[(B) four times for the attempted purchase of alcohol.]~~  
1516           (i) on a random basis at any one retail establishment location, not more often than four  
1517 times for the attempted purchase of alcohol; and  
1518           (ii) a minimum of two times at a retail establishment that sells tobacco products or  
1519 electronic cigarette products for the attempted purchase of a tobacco product or an electronic  
1520 cigarette product.  
1521           (b) This section does not prohibit an investigation or an attempt to purchase ~~[tobacco]~~  
1522 alcohol, a tobacco product, or an electronic cigarette product under this section if:  
1523           (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a  
1524 ~~[cigar, a cigarette, tobacco in any form]~~ tobacco product, or an electronic cigarette product to  
1525 an individual under the age established by Section [32B-4-403](#) or ~~[76-10-104]~~ [76-10-114](#); and  
1526           (ii) the supervising peace officer makes a written record of the grounds for the  
1527 reasonable suspicion.  
1528           (7) (a) The peace officer exercising direction, supervision, and monitoring of the  
1529 attempted purchase shall make a report of the attempted purchase, whether or not a purchase  
1530 was made.  
1531           (b) The report required by this Subsection (7) shall include:  
1532           (i) the name of the supervising peace officer;  
1533           (ii) the name of the individual attempting the purchase;  
1534           (iii) a photograph of the individual attempting the purchase showing how that  
1535 individual appeared at the time of the attempted purchase;  
1536           (iv) the name and description of the cashier or proprietor from whom the individual  
1537 attempted the purchase;  
1538           (v) the name and address of the retail establishment; and  
1539           (vi) the date and time of the attempted purchase.  
1540           Section 33. **Effective date.**  
1541           This bill takes effect on July 1, 2020.

1542 Section 34. **Coordinating H.B. 23 with S.B. 37 -- Superseding technical and**  
1543 **substantive amendments.**

1544 If this H.B. 23 and S.B. 37, Electronic Cigarette and Other Nicotine Product  
1545 Amendments, both pass and become law, it is the intent of the Legislature that the Office of  
1546 Legislative Research and General Counsel, in preparing the Utah Code database for  
1547 publication:

1548 (1) not make the changes in H.B. 23 to Subsections 10-8-41.6(1)(g)(i) and  
1549 17-50-333(1)(f)(i), regarding a retail tobacco specialty business;

1550 (2) not make the changes in S.B. 37 to Subsection 26-62-305(3)(b);

1551 (3) modify Subsections 26-62-305(3) and (4) in H.B. 23 to read:

1552 "(3) If a violation is found in an investigation of a general tobacco retailer by a law  
1553 enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic  
1554 cigarette product, or a nicotine product to an individual under 21 years old and the violation is  
1555 committed by the owner of the general tobacco retailer, the enforcing agency shall:

1556 (a) on a first violation, impose a fine of no more than \$2,000 on the general tobacco  
1557 retailer; and

1558 (b) on the second violation for the same general tobacco retailer within one year of the  
1559 first violation:

1560 (i) impose a fine not exceeding \$5,000; and

1561 (ii) revoke the permit for the general tobacco retailer.

1562 (4) If a violation is found in an investigation of a retail tobacco specialty business by a  
1563 law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an  
1564 electronic cigarette product, or a nicotine product to an individual under 21 years old, the  
1565 enforcing agency shall apply the provisions of Section 26-62-402."; and

1566 (4) not make the changes in H.B. 23 to Section 76-10-111.