

1                                   **UNFAIR PRACTICES ACT AMENDMENTS**

2   2023 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Norman K Thurston**

5   Senate Sponsor: Curtis S. Bramble

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7   **LONG TITLE**

8   **General Description:**

9           This bill repeals the Unfair Practices Act.

10 **Highlighted Provisions:**

11         This bill:

- 12           ▶ repeals the Unfair Practices Act;
- 13           ▶ amends provisions related to the Unfair Practices Act; and
- 14           ▶ makes technical and conforming changes.

15 **Money Appropriated in this Bill:**

16         None

17 **Other Special Clauses:**

18         This bill provides a special effective date.

19 **Utah Code Sections Affected:**

20 AMENDS:

21           **13-2-1 (Superseded 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201

22           **13-2-1 (Effective 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201 and

23           462

24           **41-3-201**, as last amended by Laws of Utah 2018, Chapter 387

25           **59-14-509**, as enacted by Laws of Utah 2009, Chapter 341

26           **59-14-608**, as enacted by Laws of Utah 2005, Chapter 204

27           **59-14-808**, as enacted by Laws of Utah 2020, Chapter 347

28 REPEALS:

29           **13-5-1**, Utah Code Annotated 1953

- 30           13-5-2, Utah Code Annotated 1953
- 31           13-5-2.5, as last amended by Laws of Utah 1987, Chapter 161
- 32           13-5-3, as last amended by Laws of Utah 2010, Chapter 378
- 33           13-5-4, Utah Code Annotated 1953
- 34           13-5-5, Utah Code Annotated 1953
- 35           13-5-6, Utah Code Annotated 1953
- 36           13-5-8, as last amended by Laws of Utah 1993, Chapter 4
- 37           13-5-9, as last amended by Laws of Utah 2008, Chapter 351
- 38           13-5-10, Utah Code Annotated 1953
- 39           13-5-11, Utah Code Annotated 1953
- 40           13-5-12, as last amended by Laws of Utah 2010, Chapter 378
- 41           13-5-13, Utah Code Annotated 1953
- 42           13-5-14, as last amended by Laws of Utah 1983, Chapter 58
- 43           13-5-15, as last amended by Laws of Utah 1983, Chapter 58
- 44           13-5-16, as last amended by Laws of Utah 2010, Chapter 378
- 45           13-5-17, Utah Code Annotated 1953
- 46           13-5-18, Utah Code Annotated 1953



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

49           Section 1. Section 13-2-1 (Superseded 12/31/23) is amended to read:

50           **13-2-1 (Superseded 12/31/23). Consumer protection division established --**

51 **Functions.**

52           (1) There is established within the Department of Commerce the Division of Consumer  
53 Protection.

54           (2) The division shall administer and enforce the following:

55           ~~[(a) Chapter 5, Unfair Practices Act;]~~

56           ~~[(b)]~~ (a) Chapter 10a, Music Licensing Practices Act;

57           ~~[(c)]~~ (b) Chapter 11, Utah Consumer Sales Practices Act;

- 58           ~~[(d)]~~ (c) Chapter 15, Business Opportunity Disclosure Act;
- 59           ~~[(e)]~~ (d) Chapter 20, New Motor Vehicle Warranties Act;
- 60           ~~[(f)]~~ (e) Chapter 21, Credit Services Organizations Act;
- 61           ~~[(g)]~~ (f) Chapter 22, Charitable Solicitations Act;
- 62           ~~[(h)]~~ (g) Chapter 23, Health Spa Services Protection Act;
- 63           ~~[(i)]~~ (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 64           ~~[(j)]~~ (i) Chapter 26, Telephone Fraud Prevention Act;
- 65           ~~[(k)]~~ (j) Chapter 28, Prize Notices Regulation Act;
- 66           ~~[(l)]~~ (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
- 67   Transaction Information Act;
- 68           ~~[(m)]~~ (l) Chapter 34, Utah Postsecondary Proprietary School Act;
- 69           ~~[(n)]~~ (m) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 70           ~~[(o)]~~ (n) Chapter 41, Price Controls During Emergencies Act;
- 71           ~~[(p)]~~ (o) Chapter 42, Uniform Debt-Management Services Act;
- 72           ~~[(q)]~~ (p) Chapter 49, Immigration Consultants Registration Act;
- 73           ~~[(r)]~~ (q) Chapter 51, Transportation Network Company Registration Act;
- 74           ~~[(s)]~~ (r) Chapter 52, Residential Solar Energy Disclosure Act;
- 75           ~~[(t)]~~ (s) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 76           ~~[(u)]~~ (t) Chapter 54, Ticket Website Sales Act;
- 77           ~~[(v)]~~ (u) Chapter 56, Ticket Transferability Act; and
- 78           ~~[(w)]~~ (v) Chapter 57, Maintenance Funding Practices Act.

79           Section 2. Section **13-2-1 (Effective 12/31/23)** is amended to read:

80           **13-2-1 (Effective 12/31/23). Consumer protection division established --**

81   **Functions.**

82           (1) There is established within the Department of Commerce the Division of Consumer  
83   Protection.

84           (2) The division shall administer and enforce the following:

85           ~~[(a) Chapter 5, Unfair Practices Act,]~~

- 86            [~~(b)~~] (a) Chapter 10a, Music Licensing Practices Act;
- 87            [~~(c)~~] (b) Chapter 11, Utah Consumer Sales Practices Act;
- 88            [~~(d)~~] (c) Chapter 15, Business Opportunity Disclosure Act;
- 89            [~~(e)~~] (d) Chapter 20, New Motor Vehicle Warranties Act;
- 90            [~~(f)~~] (e) Chapter 21, Credit Services Organizations Act;
- 91            [~~(g)~~] (f) Chapter 22, Charitable Solicitations Act;
- 92            [~~(h)~~] (g) Chapter 23, Health Spa Services Protection Act;
- 93            [~~(i)~~] (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 94            [~~(j)~~] (i) Chapter 26, Telephone Fraud Prevention Act;
- 95            [~~(k)~~] (j) Chapter 28, Prize Notices Regulation Act;
- 96            [~~(l)~~] (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
- 97    Transaction Information Act;
- 98            [~~(m)~~] (l) Chapter 34, Utah Postsecondary Proprietary School Act;
- 99            [~~(n)~~] (m) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 100           [~~(o)~~] (n) Chapter 41, Price Controls During Emergencies Act;
- 101           [~~(p)~~] (o) Chapter 42, Uniform Debt-Management Services Act;
- 102           [~~(q)~~] (p) Chapter 49, Immigration Consultants Registration Act;
- 103           [~~(r)~~] (q) Chapter 51, Transportation Network Company Registration Act;
- 104           [~~(s)~~] (r) Chapter 52, Residential Solar Energy Disclosure Act;
- 105           [~~(t)~~] (s) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 106           [~~(u)~~] (t) Chapter 54, Ticket Website Sales Act;
- 107           [~~(v)~~] (u) Chapter 56, Ticket Transferability Act;
- 108           [~~(w)~~] (v) Chapter 57, Maintenance Funding Practices Act; and
- 109           [~~(x)~~] (w) Chapter 61, Utah Consumer Privacy Act.

110            Section 3. Section **41-3-201** is amended to read:

111            **41-3-201. Licenses required -- Restitution -- Education.**

112            (1) As used in this section, "new applicant" means a person who is applying for a

113    license that the person has not been issued during the previous licensing year.

114 (2) A person may not act as any of the following without having procured a license  
115 issued by the administrator:

- 116 (a) a dealer;
- 117 (b) salvage vehicle buyer;
- 118 (c) salesperson;
- 119 (d) manufacturer;
- 120 (e) transporter;
- 121 (f) dismantler;
- 122 (g) distributor;
- 123 (h) factory branch and representative;
- 124 (i) distributor branch and representative;
- 125 (j) crusher;
- 126 (k) remanufacturer; or
- 127 (l) body shop.

128 (3) (a) Except as provided in Subsection (3)(c), a person may not bid on or purchase a  
129 vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or  
130 through a motor vehicle auction unless the person is a licensed salvage vehicle buyer.

131 (b) Except as provided in Subsection (3)(c), a person may not offer for sale, sell, or  
132 exchange a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001  
133 at or through a motor vehicle auction except to a licensed salvage vehicle buyer.

134 (c) A person may offer for sale, sell, or exchange a vehicle with a nonrepairable or  
135 salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction:

136 (i) to an out-of-state or out-of-country purchaser not licensed under this section, but  
137 that is authorized to do business in the domestic or foreign jurisdiction in which the person is  
138 domiciled or registered to do business;

139 (ii) subject to the restrictions in Subsection (3)(d), to an in-state purchaser not licensed  
140 under this section that:

141 (A) has a valid business license in Utah; and

142 (B) has a Utah sales tax license; and

143 (iii) to a crusher.

144 (d) (i) An operator of a motor vehicle auction shall verify that an in-state purchaser not  
145 licensed under this section has the licenses required in Subsection (3)(c)(ii).

146 (ii) An operator of a motor vehicle auction may only offer for sale, sell, or exchange  
147 five vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a motor  
148 vehicle auction in any 12-month period to an in-state purchaser that does not have a salvage  
149 vehicle buyer license issued in accordance with Subsection 41-3-202(17).

150 (iii) The five vehicle limitation under this Subsection (3)(d) applies to each Utah sales  
151 tax license and not to each person with the authority to use a sales tax license.

152 (iv) An operator of a motor vehicle auction may not sell a vehicle with a nonrepairable  
153 certificate as defined in Section 41-1a-1001 to a purchaser otherwise allowed to purchase a  
154 vehicle under Subsection (3)(c)(ii).

155 (e) For a vehicle with a salvage certificate purchased under Subsection (3)(c)(ii), an  
156 operator of a motor vehicle auction shall:

157 (i) (A) until Subsection (3)(e)(i)(B) applies, make application for a salvage certificate  
158 of title on behalf of the Utah purchaser within seven days of the purchase if the purchaser does  
159 not have a salvage vehicle buyer license, dealer license, body shop license, or dismantler  
160 license issued in accordance with Section 41-3-202; or

161 (B) beginning on or after the date that the Motor Vehicle Division has implemented the  
162 Motor Vehicle Division's GenTax system, make application electronically, in a form and time  
163 period approved by the Motor Vehicle Division, for a salvage certificate of title to be issued in  
164 the name of the purchaser;

165 (ii) give to the purchaser a disclosure printed on a separate piece of paper that states:

166 "THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE  
167 BUYER EVERY TIME THIS VEHICLE IS RESOLD WITH A SALVAGE CERTIFICATE

168 Vehicle Identification Number (VIN)

169 Year: Make: Model:

170 SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE  
171 WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION  
172 UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION  
173 BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY  
174 REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT  
175 SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE  
176 CERTIFICATE OF TITLE.

- 177 \_\_\_\_\_
- 178 Signature of Purchaser Date"; and
- 179 (iii) if applicable, provide evidence to the Motor Vehicle Division of:
- 180 (A) payment of sales taxes on taxable sales in accordance with Section [41-1a-510](#);
- 181 (B) the identification number inspection required under Section [41-1a-511](#); and
- 182 (C) the odometer disclosure statement required under Section [41-1a-902](#).
- 183 (f) The Motor Vehicle Division shall include a link to the disclosure statement  
184 described in Subsection (3)(e)(ii) on its website.
- 185 (g) The commission may impose an administrative entrance fee established in  
186 accordance with the procedures and requirements of Section [63J-1-504](#) not to exceed \$10 on a  
187 person not holding a license described in Subsection (3)(e)(i) that enters the physical premises  
188 of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an  
189 auction.
- 190 (h) A vehicle sold at or through a motor vehicle auction to an out-of-state purchaser  
191 with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has  
192 been certificated out-of-state.
- 193 (4) (a) An operator of a motor vehicle auction shall keep a record of the sale of each  
194 salvage vehicle.
- 195 (b) A record described under Subsection (4)(a) shall contain:
- 196 (i) the purchaser's name and address; and
- 197 (ii) the year, make, and vehicle identification number for each salvage vehicle sold.

198 (c) An operator of a motor vehicle auction shall:  
199 (i) provide the record described in Subsection (4)(a) electronically in a method  
200 approved by the division to the division within two business days of the completion of the  
201 motor vehicle auction;  
202 (ii) retain the record described in this Subsection (4) for five years from the date of  
203 sale; and  
204 (iii) make a record described in this Subsection (4) available for inspection by the  
205 division at the location of the motor vehicle auction during normal business hours.  
206 (5) (a) An operator of a motor vehicle auction shall store a salvage vehicle sold at  
207 auction in a secure facility until the salvage vehicle is claimed as provided in this section.  
208 (b) Beginning at the time of purchase and until the salvage vehicle is claimed, the  
209 motor vehicle auction operator may collect a daily storage fee for the secure storage of each  
210 salvage vehicle sold at auction.  
211 (c) Except as provided in Subsection (5)(d), before releasing possession of a salvage  
212 vehicle purchased at a motor vehicle auction to a person not licensed under this part or certified  
213 as a tow truck operator under Title 72, Chapter 9, Part 6, Tow Truck Provisions, and if the  
214 person claiming the vehicle is a person other than the purchaser of the vehicle, the motor  
215 vehicle auction operator shall create a record that shall contain:  
216 (i) the name and address, as verified by government issued identification, of the person  
217 claiming the vehicle;  
218 (ii) the year, make, and vehicle identification number of the claimed vehicle;  
219 (iii) a written statement from the person claiming the vehicle indicating the location  
220 where the salvage vehicle will be delivered; and  
221 (iv) verification that the claimant has authorization from the purchaser to claim the  
222 vehicle.  
223 (d) If the salvage vehicle is claimed by a transporter or a tow truck operator, the  
224 transporter or the tow truck operator shall submit to the motor vehicle auction operator a  
225 written record on any release forms indicating the location where the salvage vehicle will be



226 delivered if delivered within the state.

227 (e) An operator of a motor vehicle auction shall:

228 (i) retain the record described in Subsection (5)(c) for five years from the date of sale;

229 and

230 (ii) make the record available for inspection by the division at the location of the motor  
231 vehicle auction during normal business hours.

232 (6) (a) If applicable, an operator of a motor vehicle auction shall comply with the  
233 reporting requirements of the National Motor Vehicle Title Information System overseen by  
234 the United States Department of Justice if the person sells a vehicle with a salvage certificate to  
235 an in-state purchaser under Subsection (3)(c)(ii).

236 (b) The Motor Vehicle Division shall include a link to the National Motor Vehicle  
237 Title Information System on its website.

238 (7) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person  
239 that is an out-of-country buyer shall:

240 (i) stamp on the face of the title so as not to obscure the name, date, or mileage  
241 statement the words "FOR EXPORT ONLY" in all capital, black letters; and

242 (ii) stamp in each unused reassignment space on the back of the title the words "FOR  
243 EXPORT ONLY."

244 (b) The words "FOR EXPORT ONLY" shall be:

245 (i) at least two inches wide; and

246 (ii) clearly legible.

247 (8) A dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body  
248 shop shall obtain a supplemental license, in accordance with Section [41-3-201.7](#) for each  
249 additional place of business maintained by the licensee.

250 (9) (a) A person who has been convicted of any law relating to motor vehicle  
251 commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a  
252 salvage or nonrepairable certificate unless full restitution regarding those convictions has been  
253 made.

254 (b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a  
255 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (9)(a) if  
256 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor  
257 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or  
258 salvage certificate under Subsection (9)(a).

259 (10) (a) The division may not issue a license to a new applicant for a new or used  
260 motor vehicle dealer license, a direct-sale manufacturer license, a new or used motorcycle  
261 dealer license, or a small trailer dealer license unless the new applicant completes an eight-hour  
262 orientation class approved by the division that includes education on motor vehicle laws and  
263 rules.

264 (b) The approved costs of the orientation class shall be paid by the new applicant.

265 (c) The class shall be completed by the new applicant and the applicant's partners,  
266 corporate officers, bond indemnitors, and managers.

267 (d) (i) The division shall approve:

268 (A) providers of the orientation class; and

269 (B) costs of the orientation class.

270 (ii) A provider of an orientation class shall submit the orientation class curriculum to  
271 the division for approval prior to teaching the orientation class.

272 (iii) A provider of an orientation class shall include in the orientation materials:

273 (A) ethics training;

274 (B) motor vehicle title and registration processes;

275 [~~(C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;~~]

276 [~~(D)~~] (C) Department of Insurance requirements relating to motor vehicles;

277 [~~(E)~~] (D) Department of Public Safety requirements relating to motor vehicles;

278 [~~(F)~~] (E) federal requirements related to motor vehicles as determined by the division;

279 and

280 [~~(G)~~] (F) any required disclosure compliance forms as determined by the division.

281 (11) A person or purchaser described in Subsection (3)(c)(ii):

282 (a) may not purchase more than five salvage vehicles with a nonrepairable or salvage  
283 certificate as defined in Section 41-1a-1001 in any 12-month period;

284 (b) may not, without first complying with Section 41-1a-705, offer for sale, sell, or  
285 exchange more than two vehicles with a salvage certificate as defined in Section 41-1a-1001 in  
286 any 12-month period to a person not licensed under this section; and

287 (c) may not, without first complying with Section 41-1a-705, offer for sale, sell, or  
288 exchange a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a  
289 person not licensed under this section.

290 (12) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a  
291 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (11)(a) if  
292 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor  
293 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or  
294 salvage certificate under Subsection (11)(a).

295 Section 4. Section 59-14-509 is amended to read:

296 **59-14-509. Restrictions on mail order or Internet sales.**

297 (1) For purposes of this section:

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

299 (i) is licensed in this state to purchase non-taxed tobacco products; and

300 (ii) stores, sells, or otherwise disposes of tobacco products.

301 (b) "Licensed person" is as defined in Subsection 59-14-409(1).

302 (c) "Order or purchase" includes:

303 (i) by mail or delivery service;

304 (ii) through the Internet or computer network;

305 (iii) by telephone; or

306 (iv) through some other electronic method.

307 (d) "Retailer" means any person who sells tobacco products to consumers for personal  
308 consumption.

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

310 (a) cause tobacco products or cigarettes as defined in Section 59-22-202 to be ordered  
311 or purchased by anyone other than a licensed person; or

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

313 (3) (a) Each order or purchase of a tobacco product or cigarettes as defined in Section  
314 59-22-202 in violation of Subsection (2) shall constitute a separate violation under this section.

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

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

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

319 (iii) recovery by the state for:

320 (A) the costs of investigation;

321 (B) the cost of expert witness fees;

322 (C) the cost of the action; and

323 (D) reasonable attorney's fees.

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

328 Section 5. Section 59-14-608 is amended to read:

329 **59-14-608. License revocation and penalties.**

330 (1) (a) The commission may revoke or suspend the license of a stamping agent in the  
331 manner provided in Section 59-14-202 if the commission determines that the stamping agent  
332 has violated Sections 59-14-604, 59-14-606, or other rule adopted under the provisions of this  
333 part.

334 (b) The penalty imposed under Subsection (1)(a) is in addition to or in lieu of any other  
335 civil or criminal remedy provided by law.

336 (c) Each stamp affixed and each sale or offer to sell cigarettes in violation of Section  
337 59-14-604, or other rule adopted under the provisions of this part, shall constitute a separate

338 violation.

339 (d) For each violation under Subsection (1)(c), the commissioner may, in addition to  
340 the penalty imposed by Subsection (1)(a), impose a civil penalty in an amount not to exceed the  
341 greater of 500% of the retail value of the cigarettes or \$5,000.

342 (2) (a) Any cigarettes that have been sold, offered for sale, or possessed for sale, in this  
343 state, or imported for personal consumption in this state, in violation of Section 59-14-604 are:

344 (i) contraband under Section 59-14-213; and

345 (ii) subject to seizure and forfeiture as provided in Section 59-14-213.

346 (b) Cigarettes seized and forfeited under the provisions of this section shall be  
347 destroyed and not resold.

348 (3) (a) The commission may seek an injunction to:

349 (i) restrain a threatened or actual violation of this part by a stamping agent; or

350 (ii) to compel the stamping agent to comply with this part.

351 (b) In any action brought pursuant to this section, the state is entitled to recover the  
352 costs of investigation, costs of the action, and reasonable attorney fees.

353 ~~[(4) A person who violates Section 59-14-604 engages in an unfair and deceptive trade  
354 practice in violation of Title 13, Chapter 5, Unfair Practices Act.]~~

355 Section 6. Section 59-14-808 is amended to read:

356 **59-14-808. Restrictions on mail order or Internet sales.**

357 (1) For purposes of this section:

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

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

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

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

364 (c) "Order or purchase" includes:

365 (i) by mail or delivery service;

366 (ii) through the Internet or computer network;

367 (iii) by telephone; or

368 (iv) through some other electronic method.

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

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

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

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

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

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

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

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

381 (iii) recovery by the state for:

382 (A) the costs of investigation;

383 (B) the cost of expert witness fees;

384 (C) the cost of the action; and

385 (D) reasonable attorney's fees.

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

390 **Section 7. Repealer.**

391 This bill repeals:

392 Section **13-5-1, Short title.**

393 Section **13-5-2, "Person" defined.**

- 394           Section **13-5-2.5**, Procedure to prevent unfair competition.
- 395           Section **13-5-3**, Unlawful discriminations -- Burden of proof -- Taking or offering
- 396 **commissions -- Payments for benefit of customers -- Discrimination among purchasers --**
- 397 **Inducing discriminations.**
- 398           Section **13-5-4**, Return of net earnings or surplus by cooperatives to members.
- 399           Section **13-5-5**, "Commerce" defined.
- 400           Section **13-5-6**, Liability of agents.
- 401           Section **13-5-8**, Advertising goods not prepared to supply.
- 402           Section **13-5-9**, Limitation on quantity of article or product sold or offered for sale
- 403 **to any one customer.**
- 404           Section **13-5-10**, Cost -- Purchase price at forced sales.
- 405           Section **13-5-11**, Proceedings -- Local cost surveys as evidence.
- 406           Section **13-5-12**, Sales exempt from chapter.
- 407           Section **13-5-13**, Contracts in violation declared illegal.
- 408           Section **13-5-14**, Injunctive relief -- Damages -- Immunity.
- 409           Section **13-5-15**, Penalty for violation of chapter.
- 410           Section **13-5-16**, Separability clause.
- 411           Section **13-5-17**, Policy of act.
- 412           Section **13-5-18**, Cost -- Separate entities of business.
- 413           Section 8. **Effective date.**
- 414           This bill takes effect on May 3, 2023, except that the amendments to Section [13-2-1](#)
- 415 (Effective 12/31/23) take effect on December 31, 2023.