

UTAH INDOOR CLEAN AIR ACT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Utah Indoor Clean Air Act.

Highlighted Provisions:

This bill:

- ▶ changes a temporary exemption for certain hookah establishments and e-cigarette establishments into a permanent exemption; and
- ▶ removes a sunset date.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-38-2.5, as enacted by Laws of Utah 2012, Chapter 171

26-38-2.6, as enacted by Laws of Utah 2012, Chapter 171

63I-1-226, as last amended by Laws of Utah 2016, Chapters 89, 170, 279, and 327

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

Section 1. Section **26-38-2.5** is amended to read:

26-38-2.5. Exemption for certain restrictions on heated tobacco.



28 (1) The definition of "smoking" which prohibits heated tobacco inhaled or exhaled
29 through a hookah does not apply to a place of public access if the place of public access meets
30 the requirements of Subsections (2) and (3).

31 (2) (a) A place of public access shall certify to the department by July 1, 2012, under
32 penalty of perjury, that it meets the requirements of Subsection (3) and should be exempt under
33 this section.

34 (b) The department:

35 (i) shall verify that the place of public access complies with the provisions of
36 Subsection (3) at the time of the certification under Subsection (2)(a);

37 (ii) may ask the local health department with jurisdiction over the place of public
38 access to verify that the place of public access complies with the provisions of Subsection (3);

39 (iii) shall issue a certificate of exemption if the place of public access is found to
40 comply with the provisions of Subsection (3);

41 (iv) may itself, or through the local health department, verify at other times that the
42 place of public access is in compliance with the provisions of Subsection (3); and

43 (v) may in accordance with Section 63J-1-504, impose a fee to recover the cost of
44 certifying the place of public access as exempt under this section and enforce the provisions of
45 this section.

46 (c) A local health department may impose a reasonable fee to cover the cost of
47 verifying a place of public access complies with the provisions of Subsection (3) at the time of
48 the application under Subsection (2)(a) and during the time of the exemption.

49 (d) Notwithstanding Section 26-38-8, if the department or a local health department
50 determines that the place of public access has violated any provision of Subsection (3), the
51 department may impose penalties in accordance with Section 26-23-6.

52 (3) (a) A place of public access must meet the following criteria to claim an exemption
53 under this section:

54 (i) prior to January 1, 2012:

55 (A) the place of public access had and continues to have a class C or D liquor license;

56 (B) the place of public access sold a mixture of tobacco and other flavors for the
57 purpose of heating, inhaling and exhaling the tobacco mixture through a hookah pipe in the
58 place of public access; and

59 (C) the sale of the mixture of tobacco and other flavors for use in a hookah pipe in the
60 place of public access constituted at least 10% of the establishment's gross sales; and

61 (ii) during the period of the exemption under this section, the place of public access:

62 (A) shall maintain its class C or D liquor license;

63 (B) shall admit only individuals 21 years of age and older into the place of public
64 access;

65 (C) shall prominently display signs on the premises and in advertisements that disclose
66 the dangers of second hand smoke and inhaling tobacco in accordance with administrative rules
67 adopted by the department;

68 (D) shall require that only tobacco products sold by the place of public access may be
69 heated, inhaled, and exhaled in the place of public access; and

70 (E) may not sell a product for use in a hookah that contains more than 30% tobacco or
71 more than .05% nicotine.

72 (4) The department shall adopt administrative rules in accordance with Title 63G,
73 Chapter 3, Utah Administrative Rulemaking Act, specifying the:

74 (a) written information a facility shall include in a sign posted under Subsection

75 (3)(a)(ii)(C) and in advertisements; and

76 (b) the size and number of signs that shall be posted in a facility.

77 [~~(5) This section sunsets in accordance with Section 63I-1-226.~~]

78 Section 2. Section **26-38-2.6** is amended to read:

79 **26-38-2.6. Exemption for certain restrictions on the use of e-cigarettes.**

80 (1) The prohibition against the use of an e-cigarette in a place of public access does not
81 apply if:

82 (a) the use of the e-cigarette occurs in the place of public access that is a retail
83 establishment that sells e-cigarettes and the use is for the purpose of:

84 (i) the retailer of an e-cigarette demonstrating to the purchaser of the e-cigarette how to
85 use the e-cigarette; or

86 (ii) the customer sampling a product sold by the retailer for use in an e-cigarette; and

87 (b) the retailer of e-cigarettes:

88 (i) has all required licenses for the possession and sale of e-cigarettes in a place of
89 business;

90 (ii) does not permit a person under the age of 19 to enter any part of the premises of the
91 retail establishment in which the e-cigarettes are sold; and

92 (iii) the sale of e-cigarettes and substances for use in e-cigarettes constitutes at least
93 75% of the establishment's gross sales.

94 (2) This section does not require a county or municipality to issue a license to a person
95 to sell e-cigarettes.

96 [~~3~~] This section sunsets in accordance with Section ~~63I-1-226~~.

97 Section 3. Section **63I-1-226** is amended to read:

98 **63I-1-226. Repeal dates, Title 26.**

99 (1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
100 1, 2025.

101 (2) Section ~~26-10-11~~ is repealed July 1, 2020.

102 (3) Section ~~26-21-23~~, Licensing of non-Medicaid nursing care facility beds, is repealed
103 July 1, 2018.

104 (4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

105 (5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2019.

106 (6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2021.

107 [~~7~~] Section ~~26-38-2.5~~ is repealed July 1, 2017.]

108 [~~8~~] Section ~~26-38-2.6~~ is repealed July 1, 2017.]

109 [~~9~~] (7) Title 26, Chapter 52, Autism Treatment Account, is repealed July 1, 2016.

110 [~~10~~] (8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1,
111 2021.