

- 28 [26-62-102](#), as renumbered and amended by Laws of Utah 2018, Chapter 231
- 29 [53-3-229](#), as last amended by Laws of Utah 2010, Chapters 114 and 276
- 30 [53-3-810](#), as last amended by Laws of Utah 2010, Chapters 114 and 276
- 31 [76-8-311.3](#), as last amended by Laws of Utah 2010, Chapter 114
- 32 [76-10-101](#), as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended
- 33 by Coordination Clause, Laws of Utah 2015, Chapter 132
- 34 [76-10-104 \(Superseded 07/01/20\)](#), as last amended by Laws of Utah 2010, Chapter 114
- 35 [76-10-104 \(Effective 07/01/20\)](#), as last amended by Laws of Utah 2019, Chapter 232
- 36 [76-10-105 \(Superseded 07/01/20\)](#), as last amended by Laws of Utah 2018, Chapter 415
- 37 [76-10-105 \(Effective 07/01/20\)](#), as last amended by Laws of Utah 2019, Chapter 232
- 38 [76-10-105.1 \(Superseded 07/01/20\)](#), as last amended by Laws of Utah 2018, Chapter
- 39 231
- 40 [76-10-105.1 \(Effective 07/01/20\)](#), as last amended by Laws of Utah 2019, Chapter 232
- 41 [76-10-111](#), as last amended by Laws of Utah 2010, Chapter 114
- 42 [77-39-101 \(Superseded 07/01/20\)](#), as last amended by Laws of Utah 2018, Chapter 231
- 43 [77-39-101 \(Effective 07/01/20\)](#), as last amended by Laws of Utah 2019, Chapter 232

44 ENACTS:

45 [76-10-113](#), Utah Code Annotated 1953

46 REPEALS:

- 47 [26-57-101](#), as enacted by Laws of Utah 2015, Chapter 132
- 48 [26-57-102](#), as enacted by Laws of Utah 2015, Chapter 132
- 49 [26-57-103](#), as enacted by Laws of Utah 2015, Chapter 132
- 50 [59-14-801](#), as enacted by Laws of Utah 2015, Chapter 132
- 51 [59-14-802](#), as last amended by Laws of Utah 2019, Chapter 136
- 52 [59-14-803](#), as last amended by Laws of Utah 2018, Chapter 231



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

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

56 **10-8-41.6. Regulation of retail tobacco specialty business.**

57 (1) As used in this section:

58 (a) "Community location" means:

- 59 (i) a public or private kindergarten, elementary, middle, junior high, or high school;
- 60 (ii) a licensed child-care facility or preschool;
- 61 (iii) a trade or technical school;
- 62 (iv) a church;
- 63 (v) a public library;
- 64 (vi) a public playground;
- 65 (vii) a public park;
- 66 (viii) a youth center or other space used primarily for youth oriented activities;
- 67 (ix) a public recreational facility;
- 68 (x) a public arcade; or
- 69 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 70 (b) "Department" means the Department of Health, created in Section [26-1-4](#).
- 71 (c) "Local health department" means the same as that term is defined in Section
- 72 [26A-1-102](#).
- 73 (d) "Permittee" means a person licensed under this section to conduct business as a
- 74 retail tobacco specialty business.
- 75 (e) "Retail tobacco specialty business" means a commercial establishment in which:
- 76 (i) the sale of tobacco products accounts for more than 35% of the total quarterly gross
- 77 receipts for the establishment;
- 78 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 79 storage of tobacco products;
- 80 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
- 81 tobacco products; or
- 82 (iv) the retail space features a self-service display for tobacco products.
- 83 (f) "Self-service display" means the same as that term is defined in Section
- 84 [76-10-105.1](#).
- 85 (g) "Tobacco product" means:
- 86 (i) any cigar[;] or cigarette, [~~or electronic cigarette,~~] as those terms are defined in
- 87 Section [76-10-101](#);
- 88 (ii) a tobacco product, as that term is defined in Section [59-14-102](#), including:
- 89 (A) chewing tobacco; or

90 (B) any substitute for a tobacco product, including flavoring or additives to tobacco;
91 and

92 (iii) tobacco paraphernalia, as that term is defined in Section [76-10-104.1](#).

93 (2) The regulation of a retail tobacco specialty business is an exercise of the police
94 powers of the state, and through delegation, to other governmental entities.

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

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

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

- 103 (i) 1,000 feet of a community location;
- 104 (ii) 600 feet of another retail tobacco specialty business; or
- 105 (iii) 600 feet from property used or zoned for:
 - 106 (A) agriculture use; or
 - 107 (B) residential use.

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

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

- 116 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter
117 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in
118 which the retail tobacco specialty business is located; and
 - 119 (ii) a valid license to sell tobacco products from the State Tax Commission.
- 120 (b) A person that was licensed to conduct business as a retail tobacco specialty

121 business in a municipality before July 1, 2018, shall obtain a permit from a local health
122 department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.

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

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

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

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

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

132 (ii) if a licensee violates the regulations restricting the sale and distribution of
133 cigarettes and smokeless tobacco to protect children and adolescents issued by the United
134 States Food and Drug Administration, 21 C.F.R. Part 1140;

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

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

138 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has
139 a business license and is operating in a municipality in accordance with all applicable laws
140 except for the requirement in Subsection (4), on or before December 31, 2015, is exempt from
141 Subsection (4).

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

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

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

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

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

- 152 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 153 (B) zoning ordinances;
- 154 (C) building codes; and
- 155 (D) the requirements of a retail tobacco specialty business license issued before
- 156 December 31, 2015.

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

158 **10-8-47 (Superseded 07/01/20). Intoxication -- Fights -- Disorderly conduct --**
159 **Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and**
160 **fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to**
161 **minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or**
162 **drug addicts.**

163 (1) A municipal legislative body may:

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

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

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

171 (d) provide against and prevent the offense of obtaining money or property under false
172 pretenses and the offense of embezzling money or property in all cases where the money or
173 property embezzled or obtained under false pretenses does not exceed in value the sum of
174 \$500; and

175 (e) prohibit the sale, giving away, or furnishing of narcotics, alcoholic beverages to a
176 person younger than 21 years of age, or tobacco, except for an electronic cigarette as defined in
177 Section [76-10-101](#), to any person younger than 19 years of age.

178 (2) A city may:

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

182 (b) provide for treatment of alcoholics, narcotic addicts, and other persons who are

183 addicted to the use of drugs or intoxicants such that a person substantially lacks the capacity to
184 control the person's use of the drugs or intoxicants, and judicial supervision may be imposed as
185 a means of effecting their rehabilitation.

186 Section 3. Section **10-8-47 (Effective 07/01/20)** is amended to read:

187 **10-8-47 (Effective 07/01/20). Intoxication -- Fights -- Disorderly conduct --**
188 **Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and**
189 **fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to**
190 **minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or**
191 **drug addicts.**

192 (1) A municipal legislative body may:

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

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

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

200 (d) provide against and prevent the offense of obtaining money or property under false
201 pretenses and the offense of embezzling money or property in the cases when the money or
202 property embezzled or obtained under false pretenses does not exceed in value the sum of
203 \$500;

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

206 (f) prohibit the sale, giving away, or furnishing of tobacco [~~or e-cigarettes~~], except for
207 an electronic cigarette as defined in Section [76-10-101](#), to an individual younger than:

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

209 (ii) beginning July 1, 2021, 21 years old.

210 (2) A city may:

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

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

218 Section 4. Section **17-50-333** is amended to read:

219 **17-50-333. Regulation of retail tobacco specialty business.**

220 (1) As used in this section:

221 (a) "Community location" means:

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

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

224 (iii) a trade or technical school;

225 (iv) a church;

226 (v) a public library;

227 (vi) a public playground;

228 (vii) a public park;

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

230 (ix) a public recreational facility;

231 (x) a public arcade; or

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

233 (b) "Department" means the Department of Health, created in Section [26-1-4](#).

234 (c) "Licensee" means a person licensed under this section to conduct business as a
235 retail tobacco specialty business.

236 (d) "Local health department" means the same as that term is defined in Section
237 [26A-1-102](#).

238 (e) "Retail tobacco specialty business" means a commercial establishment in which:

239 (i) the sale of tobacco products accounts for more than 35% of the total quarterly gross
240 receipts for the establishment;

241 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
242 storage of tobacco products;

243 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
244 tobacco products; or

- 245 (iv) the retail space features a self-service display for tobacco products.
- 246 (f) "Self-service display" means the same as that term is defined in Section
247 76-10-105.1.
- 248 (g) "Tobacco product" means:
- 249 (i) any cigar[;] or cigarette[; ~~or electronic cigarette~~] as those terms are defined in
250 Section 76-10-101;
- 251 (ii) a tobacco product as that term is defined in Section 59-14-102, including:
- 252 (A) chewing tobacco; or
- 253 (B) any substitute for a tobacco product, including flavoring or additives to tobacco;
- 254 and
- 255 (iii) tobacco paraphernalia as that term is defined in Section 76-10-104.1.
- 256 (2) The regulation of a retail tobacco specialty business is an exercise of the police
257 powers of the state, and through delegation, to other governmental entities.
- 258 (3) (a) A person may not operate a retail tobacco specialty business in a county unless
259 the person obtains a license from the county in which the retail tobacco specialty business is
260 located.
- 261 (b) A county may only issue a retail tobacco specialty business license to a person if
262 the person complies with the provisions of Subsections (4) and (5).
- 263 (4) (a) Except as provided in Subsection (7), a county may not issue a license for a
264 person to conduct business as a retail tobacco specialty business if the retail tobacco specialty
265 business is located within:
- 266 (i) 1,000 feet of a community location;
- 267 (ii) 600 feet of another retail tobacco specialty business; or
- 268 (iii) 600 feet from property used or zoned for:
- 269 (A) agriculture use; or
- 270 (B) residential use.
- 271 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in
272 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest
273 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard
274 to intervening structures or zoning districts.
- 275 (5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a county may

276 not issue or renew a license for a person to conduct business as a retail tobacco specialty
277 business until the person provides the county with proof that the retail tobacco specialty
278 business has:

279 (i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter
280 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in
281 which the retail tobacco specialty business is located; and

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

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

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

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

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

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

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

294 (ii) if a licensee violates the regulations restricting the sale and distribution of
295 cigarettes and smokeless tobacco to protect children and adolescents issued by the United
296 States Food and Drug Administration, 21 C.F.R. Part 1140;

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

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

300 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has
301 a business license and is operating in a county in accordance with all applicable laws except for
302 the requirement in Subsection (4), on or before December 31, 2015, is exempt from Subsection
303 (4).

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

306 (i) the retail tobacco specialty business license is renewed continuously without lapse

307 or permanent revocation;

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

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

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

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

315 (B) zoning ordinances;

316 (C) building codes; and

317 (D) the requirements of a retail tobacco specialty business license issued before
318 December 31, 2015.

319 Section 5. Section **26-38-2** is amended to read:

320 **26-38-2. Definitions.**

321 As used in this chapter:

322 [~~(1) "E-cigarette":~~]

323 [~~(a) means any electronic oral device:~~]

324 [~~(i) that provides an aerosol or a vapor of nicotine or other substance; and]~~

325 [~~(ii) which simulates smoking through its use or through inhalation of the device; and]~~

326 [~~(b) includes an oral device that is:~~]

327 [~~(i) composed of a heating element, battery, or electronic circuit; and]~~

328 [~~(ii) marketed, manufactured, distributed, or sold as:~~]

329 [~~(A) an e-cigarette;~~]

330 [~~(B) e-cigar;~~]

331 [~~(C) e-pipe; or]~~

332 [~~(D) any other product name or descriptor, if the function of the product meets the
333 definition of Subsection (1)(a):]~~

334 [~~(2)~~] (1) "Non-tobacco shisha" means any product that:

335 (a) does not contain tobacco or nicotine; and

336 (b) is smoked or intended to be smoked in a hookah or water pipe.

337 [~~(3)~~] (2) "Place of public access" means any enclosed indoor place of business,

338 commerce, banking, financial service, or other service-related activity, whether publicly or
339 privately owned and whether operated for profit or not, to which persons not employed at the
340 place of public access have general and regular access or which the public uses, including:

- 341 (a) buildings, offices, shops, elevators, or restrooms;
- 342 (b) means of transportation or common carrier waiting rooms;
- 343 (c) restaurants, cafes, or cafeterias;
- 344 (d) taverns as defined in Section [32B-1-102](#), or cabarets;
- 345 (e) shopping malls, retail stores, grocery stores, or arcades;
- 346 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
347 sites, auditoriums, or arenas;
- 348 (g) barber shops, hair salons, or laundromats;
- 349 (h) sports or fitness facilities;
- 350 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
351 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
352 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
353 of these;
- 354 (j) (i) any child care facility or program subject to licensure or certification under this
355 title, including those operated in private homes, when any child cared for under that license is
356 present; and
357 (ii) any child care, other than child care as defined in Section [26-39-102](#), that is not
358 subject to licensure or certification under this title, when any child cared for by the provider,
359 other than the child of the provider, is present;
- 360 (k) public or private elementary or secondary school buildings and educational
361 facilities or the property on which those facilities are located;
- 362 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
363 religious organization when used solely by the organization members or their guests or
364 families;
- 365 (m) any facility rented or leased for private functions from which the general public is
366 excluded and arrangements for the function are under the control of the function sponsor;
- 367 (n) any workplace that is not a place of public access or a publicly owned building or
368 office but has one or more employees who are not owner-operators of the business;

369 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
 370 stating "no smoking", "thank you for not smoking", or similar statement; and

371 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.

372 ~~[(4)]~~ (3) "Publicly owned building or office" means any enclosed indoor place or
 373 portion of a place owned, leased, or rented by any state, county, or municipal government, or
 374 by any agency supported by appropriation of, or by contracts or grants from, funds derived
 375 from the collection of federal, state, county, or municipal taxes.

376 ~~[(5)]~~ (4) "Shisha" means any product that:

377 (a) contains tobacco or nicotine; and

378 (b) is smoked or intended to be smoked in a hookah or water pipe.

379 ~~[(6)]~~ (5) "Smoking" means:

380 (a) the possession of any lighted or heated tobacco product in any form;

381 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe,
 382 or hookah that contains:

383 (i) tobacco or any plant product intended for inhalation;

384 (ii) shisha or non-tobacco shisha;

385 (iii) nicotine;

386 (iv) a natural or synthetic tobacco substitute; or

387 (v) a natural or synthetic flavored tobacco product; or

388 ~~[(c) using an e-cigarette; or]~~

389 ~~[(d)]~~ (c) using an oral smoking device intended to circumvent the prohibition of
 390 smoking in this chapter.

391 Section 6. Section 26-62-102 is amended to read:

392 **26-62-102. Definitions.**

393 As used in this chapter:

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

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

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

397 (2) "Employee" means an employee of a tobacco retailer.

398 (3) "Enforcing agency" means the state Department of Health, or any local health
 399 department enforcing the provisions of this chapter.

400 (4) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco
401 specialty business.

402 (5) "Local health department" means the same as that term is defined in Section
403 26A-1-102.

404 (6) "Permit" means a tobacco retail permit issued under this chapter.

405 (7) "Retail tobacco specialty business" means the same as that term is defined:

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

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

408 (8) "Tax commission license" means a license issued by the State Tax Commission
409 under:

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

411 (b) Section 59-14-301 to sell tobacco products at retail[~~;~~ or].

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

413 (9) "Tobacco product" means:

414 (a) a cigar[~~;~~ or cigarette[~~;~~ or electronic cigarette] as those terms are defined in Section
415 76-10-101;

416 (b) a tobacco product as that term is defined in Section 59-14-102, including:

417 (i) chewing tobacco; or

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

419 (c) tobacco paraphernalia as that term is defined in Section 76-10-104.1.

420 (10) "Tobacco retailer" means a person that is required to obtain a tax commission
421 license.

422 Section 7. Section 53-3-229 is amended to read:

423 **53-3-229. Prohibited uses of license certificate -- Penalty.**

424 (1) It is a class C misdemeanor for a person to:

425 (a) lend or knowingly permit the use of a license certificate issued to the person, by a
426 person not entitled to it;

427 (b) display or to represent as the person's own a license certificate not issued to the
428 person;

429 (c) refuse to surrender to the division or a peace officer upon demand any license
430 certificate issued by the division;

431 (d) use a false name or give a false address in any application for a license or any
432 renewal or duplicate of the license certificate, or to knowingly make a false statement, or to
433 knowingly conceal a material fact or otherwise commit a fraud in the application;

434 (e) display a canceled, denied, revoked, suspended, or disqualified driver license
435 certificate as a valid driver license certificate;

436 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
437 driver license certificate issued by a governmental entity if the item is not an authentic driver
438 license certificate issued by that governmental entity; or

439 (g) alter any information on an authentic driver license certificate so that it no longer
440 represents the information originally displayed.

441 (2) The provisions of Subsection (1)(e) do not prohibit the use of a person's driver
442 license certificate as a means of personal identification.

443 (3) It is a class A misdemeanor to knowingly:

444 (a) issue a driver license certificate with false or fraudulent information;

445 (b) issue a driver license certificate to a person younger than 21 years of age if the
446 driver license certificate is not distinguished as required for a person younger than 21 years of
447 age under Section 53-3-207; or

448 (c) acquire, use, display, or transfer a false or altered driver license certificate to
449 procure:

450 (i) a cigarette;

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

452 [~~(iii)~~] (ii) tobacco; or

453 [~~(iv)~~] (iii) a tobacco product.

454 (4) A person may not use, display, or transfer a false or altered driver license certificate
455 to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold
456 or consumed, or obtain employment that may not be obtained by a minor in violation of
457 Section 32B-1-403.

458 (5) It is a third degree felony if a person's acquisition, use, display, or transfer of a false
459 or altered driver license certificate:

460 (a) aids or furthers the person's efforts to fraudulently obtain goods or services; or

461 (b) aids or furthers the person's efforts to commit a violent felony.

462 Section 8. Section **53-3-810** is amended to read:

463 **53-3-810. Prohibited uses of identification card -- Penalties.**

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

465 (a) lend or knowingly permit the use of an identification card issued to the person, by a
466 person not entitled to it;

467 (b) display or to represent as the person's own an identification card not issued to the
468 person;

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

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

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

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

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

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

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

482 (b) issue an identification card to any person younger than 21 years of age if the
483 identification card is not distinguished as required for a person younger than 21 years of age
484 under Section **53-3-806**; or

485 (c) acquire, use, display, or transfer a false or altered identification card to procure:

486 (i) a cigarette;

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

488 [~~(iii)~~] (ii) tobacco; or

489 [~~(iv)~~] (iii) a tobacco product.

490 (3) A person may not knowingly use, display, or transfer a false or altered
491 identification card to procure alcoholic beverages, gain admittance to a place where alcoholic
492 beverages are sold or consumed, or obtain employment that may not be obtained by a minor in

493 violation of Section 32B-1-403.

494 (4) It is a third degree felony if a person's acquisition, use, display, or transfer of a false
495 or altered identification card:

496 (a) aids or furthers the person's efforts to fraudulently obtain goods or services; or

497 (b) aids or furthers the person's efforts to commit a violent felony.

498 Section 9. Section 76-8-311.3 is amended to read:

499 **76-8-311.3. Items prohibited in correctional and mental health facilities --**

500 **Penalties.**

501 (1) As used in this section:

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

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

506 (c) "Correctional facility" means:

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

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

511 (iii) any juvenile detention facility; and

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

514 (d) "Electronic cigarette" [~~is~~ as] means the same as that term is defined in Section
515 76-10-101.

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

519 (f) "Mental health facility" is as defined in Section 62A-15-602.

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

521 (h) "Secure area" is as defined in Section 76-8-311.1.

522 (2) Notwithstanding Section 76-10-500, a correctional or mental health facility may
523 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,

524 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any
525 quantity may be:

- 526 (a) transported to or upon a correctional or mental health facility;
- 527 (b) sold or given away at any correctional or mental health facility;
- 528 (c) given to or used by any offender at a correctional or mental health facility; or
- 529 (d) knowingly or intentionally possessed at a correctional or mental health facility.

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

- 532 (a) a correctional facility operated by the Department of Corrections, acted in
533 conformity with departmental rule or policy;
- 534 (b) a correctional facility operated by a municipality, acted in conformity with the
535 policy of the municipality;
- 536 (c) a correctional facility operated by a county, acted in conformity with the policy of
537 the county; or
- 538 (d) a mental health facility, acted in conformity with the policy of the mental health
539 facility.

540 (4) (a) Any person who transports to or upon a correctional facility, or into a secure
541 area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of
542 escape with intent to provide or sell it to any offender, is guilty of a second degree felony.

543 (b) Any person who provides or sells to any offender at a correctional facility, or any
544 detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous
545 weapon, or implement of escape is guilty of a second degree felony.

546 (c) Any offender who possesses at a correctional facility, or any detainee who
547 possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous
548 weapon, or implement of escape is guilty of a second degree felony.

549 (d) Any person who, without the permission of the authority operating the correctional
550 facility or the secure area of a mental health facility, knowingly possesses at a correctional
551 facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon,
552 or implement of escape is guilty of a third degree felony.

553 (e) Any person violates Section [76-10-306](#) who knowingly or intentionally transports,
554 possesses, distributes, or sells any explosive in a correctional facility or mental health facility.

555 (5) (a) A person is guilty of a third degree felony who, without the permission of the
556 authority operating the correctional facility or secure area of a mental health facility, knowingly
557 transports to or upon a correctional facility or into a secure area of a mental health facility any:

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

561 (b) A person is guilty of a third degree felony who knowingly violates correctional or
562 mental health facility policy or rule by providing or selling to any offender at a correctional
563 facility or detainee within a secure area of a mental health facility any:

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

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

- 570 (i) spirituous or fermented liquor;
- 571 (ii) medicine, other than medicine provided by the facility's health care providers in
572 compliance with facility policy; or
- 573 (iii) poison in any quantity.

574 (d) A person is guilty of a class A misdemeanor who, with the intent to directly or
575 indirectly provide or sell any tobacco product or electronic cigarette to an offender, directly or
576 indirectly:

- 577 (i) transports, delivers, or distributes any tobacco product or electronic cigarette to an
578 offender or on the grounds of any correctional facility;
- 579 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another
580 person to transport any tobacco product or electronic cigarette to an offender or on any
581 correctional facility, if the person is acting with the mental state required for the commission of
582 an offense; or
- 583 (iii) facilitates, arranges, or causes the transport of any tobacco product or electronic
584 cigarette in violation of this section to an offender or on the grounds of any correctional
585 facility.

586 (e) A person is guilty of a class A misdemeanor who, without the permission of the
587 authority operating the correctional or mental health facility, fails to declare or knowingly
588 possesses at a correctional facility or in a secure area of a mental health facility any:

- 589 (i) spirituous or fermented liquor;
- 590 (ii) medicine; or
- 591 (iii) poison in any quantity.

592 (f) A person is guilty of a class B misdemeanor who, without the permission of the
593 authority operating the correctional facility, knowingly engages in any activity that would
594 facilitate the possession of any contraband by an offender in a correctional facility. The
595 provisions of Subsection (5)(d) regarding any tobacco product or electronic cigarette take
596 precedence over this Subsection (5)(f).

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

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

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

605 Section 10. Section 76-10-101 is amended to read:

606 **76-10-101. Definitions.**

607 As used in this part:

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

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

- 614 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
- 615 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
616 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to

617 be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

618 (3) "Electronic cigarette" means [~~an electronic cigarette product, as defined in Section~~
619 ~~59-14-802.~~];

620 (a) any electronic oral device:

621 (i) that provides an aerosol or a vapor of nicotine or other substance; and

622 (ii) which simulates smoking through use or through inhalation of the device;

623 (b) an oral device that is:

624 (i) composed of a heating element, battery, or electronic circuit; and

625 (ii) marketed, manufactured, distributed, or sold as an e-cigarette, e-cigar, e-pipe, or

626 any other product name or descriptor if the function of the product meets the definition in

627 Subsection (3)(a);

628 (c) a component of the device described in Subsection (3)(a);

629 (d) an accessory sold in the same package as the device described in Subsection

630 (3)(a)(i); and

631 (e) any substance, including liquid containing nicotine, used or intended for use in a
632 device described in Subsections (3)(a) through (e).

633 (4) "Place of business" includes:

634 (a) a shop;

635 (b) a store;

636 (c) a factory;

637 (d) a public garage;

638 (e) an office;

639 (f) a theater;

640 (g) a recreation hall;

641 (h) a dance hall;

642 (i) a poolroom;

643 (j) a café;

644 (k) a cafeteria;

645 (l) a cabaret;

646 (m) a restaurant;

647 (n) a hotel;

- 648 (o) a lodging house;
649 (p) a streetcar;
650 (q) a bus;
651 (r) an interurban or railway passenger coach;
652 (s) a waiting room; and
653 (t) any other place of business.

654 (5) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
655 lighted smoking equipment.

656 Section 11. Section **76-10-104 (Superseded 07/01/20)** is amended to read:

657 **76-10-104 (Superseded 07/01/20). Providing a cigar, cigarette, or tobacco to a**
658 **minor -- Penalties.**

659 (1) Any person who knowingly, intentionally, recklessly, or with criminal negligence
660 provides any cigar, cigarette, [~~electronic cigarette,~~] or tobacco in any form, to any person under
661 19 years of age, is guilty of a class C misdemeanor on the first offense, a class B misdemeanor
662 on the second offense, and a class A misdemeanor on subsequent offenses.

663 (2) For purposes of this section "provides":

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

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

669 Section 12. Section **76-10-104 (Effective 07/01/20)** is amended to read:

670 **76-10-104 (Effective 07/01/20). Providing a cigar, cigarette, or tobacco to a minor**
671 **-- Penalties.**

672 (1) A person violates this section who knowingly, intentionally, recklessly, or with
673 criminal negligence provides a cigar, cigarette, [~~electronic cigarette,~~] or tobacco in any form, to
674 an individual under [~~the following ages~~] 21 years old, is guilty of a class C misdemeanor on the
675 first offense, a class B misdemeanor on the second offense, and a class A misdemeanor on
676 subsequent offenses[~~;~~].

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

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

679 (2) As used in this section "provides":

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

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

685 Section 13. Section **76-10-105 (Superseded 07/01/20)** is amended to read:

686 **76-10-105 (Superseded 07/01/20). Buying or possessing a cigar, cigarette, or**
687 **tobacco by a minor -- Penalty -- Compliance officer authority -- Juvenile court**
688 **jurisdiction.**

689 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's
690 possession any cigar, cigarette, [~~electronic cigarette,~~] or tobacco in any form is guilty of a class
691 C misdemeanor and subject to:

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

693 (b) participation in a court-approved tobacco education program, which may include a
694 participation fee.

695 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
696 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject
697 to the jurisdiction of the juvenile court and subject to Section [78A-6-602](#), unless the violation
698 is committed on school property. If a violation under this section is adjudicated under Section
699 [78A-6-117](#), the minor may be subject to the following:

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

701 (b) participation in a court-approved tobacco education program, which may include a
702 participation fee.

703 (3) A compliance officer appointed by a board of education under Section [53G-4-402](#)
704 may not issue a citation for a violation of this section committed on school property. A cited
705 violation committed on school property shall be addressed in accordance with Section
706 [53G-8-211](#).

707 Section 14. Section **76-10-105 (Effective 07/01/20)** is amended to read:

708 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, cigarette, or tobacco**
709 **by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

710 (1) (a) An individual who is 18 years or older, but younger than [~~the age specified in~~
711 ~~Subsection (1)(b)] 21 years old, and buys or attempts to buy, accepts, or has in the individual's
712 possession any cigar, cigarette, [~~electronic cigarette,~~] or tobacco in any form is guilty of an
713 infraction and subject to:~~

714 (i) a minimum fine or penalty of \$60; and
715 (ii) participation in a court-approved tobacco education or cessation program, which
716 may include a participation fee.

717 (b) For purposes of Subsection (1)(a), the individual is younger than[:] 21 years old.
718 [~~(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and~~
719 [~~(ii) beginning July 1, 2021, 21 years old.~~]

720 (2) An individual under the age of 18 who buys or attempts to buy, accepts, or has in
721 the individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is
722 subject to the jurisdiction of the juvenile court and subject to Section [78A-6-602](#), unless the
723 violation is committed on school property. If a violation under this section is adjudicated under
724 Section [78A-6-117](#), the minor may be subject to the following:

725 (a) a fine or penalty, in accordance with Section [78A-6-117](#); and
726 (b) participation in a court-approved tobacco education program, which may include a
727 participation fee.

728 (3) A compliance officer appointed by a board of education under Section [53G-4-402](#)
729 may not issue a citation for a violation of this section committed on school property. A cited
730 violation committed on school property shall be addressed in accordance with Section
731 [53G-8-211](#).

732 (4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,
733 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is [~~18~~] 21 years or
734 older and is:

735 (i) on active duty in the United States Armed Forces; or
736 (ii) a spouse or dependent of an individual who is on active duty in the United States
737 Armed Forces.

738 (b) A valid, government-issued military identification card is required to verify proof
739 of age under Subsection (4)(a).

740 Section 15. Section [76-10-105.1](#) (**Superseded 07/01/20**) is amended to read:

741 **76-10-105.1 (Superseded 07/01/20). Requirement of direct, face-to-face sale of**
742 **cigarettes and tobacco -- Minors not allowed in tobacco specialty shop -- Penalties.**

743 (1) As used in this section:

744 (a) "Cigarette" means the same as that term is defined in Section [59-14-102](#).

745 (b) (i) "Face-to-face exchange" means a transaction made in person between an
746 individual and a retailer or retailer's employee.

747 (ii) "Face-to-face exchange" does not include a sale through a:

748 (A) vending machine; or

749 (B) self-service display.

750 (c) "Retailer" means a person who:

751 (i) sells a cigarette~~;~~ or tobacco~~;~~ ~~or an electronic cigarette~~ to an individual for
752 personal consumption; or

753 (ii) operates a facility with a vending machine that sells a cigarette~~;~~ or tobacco~~;~~ ~~or an~~
754 ~~electronic cigarette~~].

755 (d) "Self-service display" means a display of a cigarette~~;~~ or tobacco~~;~~ ~~or an electronic~~
756 ~~cigarette~~ to which the public has access without the intervention of a retailer or retailer's
757 employee.

758 (e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

759 (f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is
760 defined:

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

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

763 (2) Except as provided in Subsection (3), a retailer may sell a cigarette~~;~~ or tobacco~~;~~
764 ~~or an electronic cigarette~~ only in a face-to-face exchange.

765 (3) The face-to-face sale requirement in Subsection (2) does not apply to:

766 (a) a mail-order, telephone, or Internet sale made in compliance with Section

767 [59-14-509](#);

768 (b) a sale from a vending machine or self-service display that is located in an area of a
769 retailer's facility:

770 (i) that is distinct and separate from the rest of the facility; and

771 (ii) where the retailer only allows an individual who complies with Subsection (4) to be

772 present; or

773 (c) a sale at a tobacco specialty shop.

774 (4) An individual who is less than 19 years old may not enter or be present at a tobacco
775 specialty shop unless the individual is:

776 (a) accompanied by a parent or legal guardian;

777 (b) present at the tobacco shop for a bona fide commercial purpose other than to
778 purchase a cigarette[;] or tobacco[; ~~or an electronic cigarette~~]; or

779 (c) 18 years old or older and an active duty member of the United States Armed Forces,
780 as demonstrated by a valid, government-issued military identification card.

781 (5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual
782 into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not allow the
783 individual to purchase a cigarette[;] or tobacco[; ~~or an electronic cigarette~~].

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

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

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

787 (c) class A misdemeanor on the third and all subsequent offenses.

788 (7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor
789 under Section [76-10-104](#).

790 (8) (a) Any ordinance, regulation, or rule adopted by the governing body of a political
791 subdivision of the state or by a state agency that affects the sale, placement, or display of
792 cigarettes[;] or tobacco[; ~~or electronic cigarettes~~] that is not essentially identical to the
793 provisions of this section and Section [76-10-102](#) is superseded.

794 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use
795 ordinance by a municipal or county government.

796 Section 16. Section [76-10-105.1](#) (Effective 07/01/20) is amended to read:

797 **[76-10-105.1](#) (Effective 07/01/20). Requirement of direct, face-to-face sale of**
798 **cigarettes and tobacco -- Minors not allowed in tobacco specialty shop -- Penalties.**

799 (1) As used in this section:

800 (a) "Cigarette" means the same as that term is defined in Section [59-14-102](#).

801 (b) (i) "Face-to-face exchange" means a transaction made in person between an
802 individual and a retailer or retailer's employee.

- 803 (ii) "Face-to-face exchange" does not include a sale through a:
- 804 (A) vending machine; or
- 805 (B) self-service display.
- 806 (c) "Retailer" means a person who:
- 807 (i) sells a cigarette[;] or tobacco[; ~~or an electronic cigarette~~] to an individual for
- 808 personal consumption; or
- 809 (ii) operates a facility with a vending machine that sells a cigarette[;] or tobacco[; ~~or an~~
- 810 ~~electronic cigarette~~].
- 811 (d) "Self-service display" means a display of a cigarette[;] or tobacco[; ~~or an electronic~~
- 812 ~~cigarette~~] to which the public has access without the intervention of a retailer or retailer's
- 813 employee.
- 814 (e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.
- 815 (f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is
- 816 defined:
- 817 (i) as it relates to a municipality, in Section [10-8-41.6](#); and
- 818 (ii) as it relates to a county, in Section [17-50-333](#).
- 819 (2) Except as provided in Subsection (3), a retailer may sell a cigarette[;] or tobacco[;
- 820 ~~or an electronic cigarette~~] only in a face-to-face exchange.
- 821 (3) The face-to-face sale requirement in Subsection (2) does not apply to:
- 822 (a) a mail-order, telephone, or Internet sale made in compliance with Section
- 823 [59-14-509](#);
- 824 (b) a sale from a vending machine or self-service display that is located in an area of a
- 825 retailer's facility:
- 826 (i) that is distinct and separate from the rest of the facility; and
- 827 (ii) where the retailer only allows an individual who complies with Subsection (4) to be
- 828 present; or
- 829 (c) a sale at a tobacco specialty shop.
- 830 (4) (a) An individual who is less than the age specified in Subsection (4)(b) may not
- 831 enter or be present at a tobacco specialty shop unless the individual is:
- 832 (i) accompanied by a parent or legal guardian;
- 833 (ii) present at the tobacco shop for a bona fide commercial purpose other than to

834 purchase a cigarette[;] or tobacco[; ~~or an electronic cigarette~~]; or

835 (iii) 18 years old or older and an active duty member of the United States Armed
836 Forces, as demonstrated by a valid, government-issued military identification card.

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

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

839 (ii) beginning July 1, 2021, 21 years old.

840 (5) A parent or legal guardian who accompanies, under Subsection (4)(a)(i), an
841 individual into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not
842 allow the individual to purchase a cigarette[;] or tobacco[; ~~or an electronic cigarette~~].

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

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

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

846 (c) class A misdemeanor on the third and all subsequent offenses.

847 (7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor
848 under Section 76-10-104.

849 (8) (a) An ordinance, regulation, or rule adopted by the governing body of a political
850 subdivision of the state or by a state agency that affects the sale, minimum age of sale,
851 placement, or display of cigarettes[;] or tobacco[; ~~or electronic cigarettes~~] that is not essentially
852 identical to this section and Section 76-10-102 is superseded.

853 (b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use
854 ordinance by a municipal or county government.

855 Section 17. Section 76-10-111 is amended to read:

856 **76-10-111. Prohibition of gift or free distribution of smokeless tobacco --**

857 **Exceptions.**

858 (1) The Legislature finds that:

859 (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who
860 use those products because research indicates that they may cause mouth or oral cancers;

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

862 (c) the use of electronic cigarettes may lead to unhealthy behavior such as the use of
863 tobacco products; and

864 (d) it is necessary to restrict the gift of the products described in this Subsection (1) in

865 the interest of the health of the citizens of this state.

866 (2) Except as provided in Subsection (3), it is unlawful for a manufacturer, wholesaler,
867 and retailer to give or distribute without charge any smokeless tobacco[;] or chewing tobacco[;
868 ~~or electronic cigarette~~] in this state. Any person who violates this section is guilty of a class C
869 misdemeanor for the first offense, and is guilty of a class B misdemeanor for any subsequent
870 offense.

871 (3) (a) Smokeless tobacco[;] or chewing tobacco[; ~~or an electronic cigarette~~] may be
872 distributed to adults without charge at professional conventions where the general public is
873 excluded.

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

877 Section 18. Section **76-10-113** is enacted to read:

878 **76-10-113. Prohibition on the manufacture, distribution, sale, possession, and use**
879 **of electronic cigarettes.**

880 (1) It is unlawful for any person to knowingly manufacture, distribute, sell, offer for
881 sale, give, furnish, buy, attempt to buy, accept, or have in the person's possession any electronic
882 cigarette in the state.

883 (2) Except as provided in Subsection [76-10-105\(2\)](#), any person who violates this
884 section is guilty of a class A misdemeanor.

885 (3) (a) This section does not apply to an individual who is 21 years or older, and is:

886 (i) on active duty in the United States Armed Forces; or

887 (ii) a spouse or dependent of an individual who is on active duty in the United States
888 Armed Forces.

889 (b) A valid, government-issued military identification card is required to verify proof
890 of age under Subsection (3)(a).

891 Section 19. Section **77-39-101 (Superseded 07/01/20)** is amended to read:

892 **77-39-101 (Superseded 07/01/20). Investigation of sales of alcohol and tobacco to**
893 **underage persons.**

894 [~~(1)~~ As used in this section, "electronic cigarette" is as defined in Section [76-10-101](#).]

895 [~~(2)~~] (1) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer

896 Classifications, may investigate the possible violation of:

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

899 (ii) Section 76-10-104 by requesting an individual under the age of 19 years to enter
900 into and attempt to purchase or make a purchase from a retail establishment of:

901 (A) a cigar;

902 (B) a cigarette; or

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

904 [~~(D) an electronic cigarette.~~]

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

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

910 (i) alcohol; or

911 (ii) (A) a cigar;

912 (B) a cigarette; or

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

914 [~~(D) an electronic cigarette.~~]

915 (d) If a citation or information is issued, it shall be issued within seven days of the
916 purchase.

917 [~~(3)~~] (2) (a) If an individual under the age of 18 years old is requested to attempt a
918 purchase, a written consent of that individual's parent or guardian shall be obtained prior to that
919 individual participating in any attempted purchase.

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

921 (i) be a trained volunteer; or

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

924 [~~(4)~~] (3) The individual requested by the peace officer to attempt a purchase and
925 anyone accompanying the individual attempting a purchase may not during the attempted
926 purchase misrepresent the age of the individual by false or misleading identification

927 documentation in attempting the purchase.

928 ~~[(5)]~~ (4) An individual requested to attempt to purchase or make a purchase pursuant to
929 this section is immune from prosecution, suit, or civil liability for the purchase of, attempted
930 purchase of, or possession of alcohol, a cigar, a cigarette, or tobacco in any form~~[-, or an~~
931 ~~electronic cigarette]~~ if a peace officer directs, supervises, and monitors the individual.

932 ~~[(6)]~~ (5) (a) Except as provided in Subsection ~~[(6)]~~ (5)(b), a purchase attempted under
933 this section shall be conducted:

934 (i) on a random basis; and

935 (ii) within a 12-month period at any one retail establishment location not more often
936 than:

937 (A) two times for the attempted purchase of:

938 (I) a cigar;

939 (II) a cigarette;

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

941 ~~[(IV) an electronic cigarette; and]~~

942 (B) four times for the attempted purchase of alcohol.

943 (b) Nothing in this section shall prohibit an investigation or an attempt to purchase
944 tobacco under this section if:

945 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
946 cigar, a cigarette, or tobacco in any form~~[-, or an electronic cigarette]~~ to an individual under the
947 age established by Section [32B-4-403](#) or [76-10-104](#); and

948 (ii) the supervising peace officer makes a written record of the grounds for the
949 reasonable suspicion.

950 ~~[(7)]~~ (6) (a) The peace officer exercising direction, supervision, and monitoring of the
951 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
952 was made.

953 (b) The report required by this Subsection ~~[(7)]~~ (6) shall include:

954 (i) the name of the supervising peace officer;

955 (ii) the name of the individual attempting the purchase;

956 (iii) a photograph of the individual attempting the purchase showing how that
957 individual appeared at the time of the attempted purchase;

958 (iv) the name and description of the cashier or proprietor from whom the individual
959 attempted the purchase;

960 (v) the name and address of the retail establishment; and

961 (vi) the date and time of the attempted purchase.

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

963 **77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco, and**
964 **electronic cigarettes to underage individuals.**

965 [~~(1)~~ As used in this section, "electronic cigarette" is as defined in Section ~~76-10-101.~~]

966 [~~(2)~~] (1) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer
967 Classifications, may investigate the possible violation of:

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

970 (ii) Section ~~76-10-104~~ by requesting an individual under the age specified in
971 Subsection [~~(2)~~] (1)(e) to enter into and attempt to purchase or make a purchase from a retail
972 establishment of:

973 (A) a cigar;

974 (B) a cigarette; or

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

976 [~~(D)~~ an electronic cigarette.]

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

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

982 (i) alcohol; or

983 (ii) (A) a cigar;

984 (B) a cigarette; or

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

986 [~~(D)~~ an electronic cigarette.]

987 (d) If a citation or information is issued, it shall be issued within seven days of the
988 purchase.

989 (e) For purposes of Subsection ~~[(2)]~~ (1)(a)(ii), the individual is younger than:

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

991 (ii) beginning July 1, 2021, 21 years old.

992 ~~[(3)]~~ (2) (a) If an individual under the age of 18 years old is requested to attempt a
993 purchase, a written consent of that individual's parent or guardian shall be obtained prior to that
994 individual participating in any attempted purchase.

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

996 (i) be a trained volunteer; or

997 (ii) receive payment, but may not be paid based on the number of successful purchases
998 of alcohol~~;~~ or tobacco~~;~~ ~~or an electronic cigarette~~.

999 ~~[(4)]~~ (3) The individual requested by the peace officer to attempt a purchase and
1000 anyone accompanying the individual attempting a purchase may not during the attempted
1001 purchase misrepresent the age of the individual by false or misleading identification
1002 documentation in attempting the purchase.

1003 ~~[(5)]~~ (4) An individual requested to attempt to purchase or make a purchase pursuant to
1004 this section is immune from prosecution, suit, or civil liability for the purchase of, attempted
1005 purchase of, or possession of alcohol, a cigar, a cigarette, or tobacco in any form~~;~~ ~~or an~~
1006 ~~electronic cigarette~~ if a peace officer directs, supervises, and monitors the individual.

1007 ~~[(6)]~~ (5) (a) Except as provided in Subsection ~~[(6)]~~ (5)(b), a purchase attempted under
1008 this section shall be conducted:

1009 (i) on a random basis; and

1010 (ii) within a 12-month period at any one retail establishment location not more often
1011 than:

1012 (A) two times for the attempted purchase of:

1013 (I) a cigar;

1014 (II) a cigarette; or

1015 (III) tobacco in any form; ~~[or]~~ and

1016 ~~[(IV)]~~ ~~an electronic cigarette; and~~

1017 (B) four times for the attempted purchase of alcohol.

1018 (b) This section does not prohibit an investigation or an attempt to purchase tobacco
1019 under this section if:

1020 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
1021 cigar, a cigarette, or tobacco in any form[, or an electronic cigarette] to an individual under the
1022 age established by Section 32B-4-403 or 76-10-104; and

1023 (ii) the supervising peace officer makes a written record of the grounds for the
1024 reasonable suspicion.

1025 ~~[(7)]~~ (6) (a) The peace officer exercising direction, supervision, and monitoring of the
1026 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
1027 was made.

1028 (b) The report required by this Subsection ~~[(7)]~~ (6) shall include:

1029 (i) the name of the supervising peace officer;

1030 (ii) the name of the individual attempting the purchase;

1031 (iii) a photograph of the individual attempting the purchase showing how that
1032 individual appeared at the time of the attempted purchase;

1033 (iv) the name and description of the cashier or proprietor from whom the individual
1034 attempted the purchase;

1035 (v) the name and address of the retail establishment; and

1036 (vi) the date and time of the attempted purchase.

1037 Section 21. **Repealer.**

1038 This bill repeals:

1039 Section 26-57-101, Title.

1040 Section 26-57-102, Definitions.

1041 Section 26-57-103, Electronic cigarette products -- Labeling -- Manufacturing and
1042 quality control standards -- Advertising.

1043 Section 59-14-801, Title.

1044 Section 59-14-802, Definitions.

1045 Section 59-14-803, License to sell electronic cigarette products.

1046 Section 22. **Effective date.**

1047 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

1048 (2) The actions affecting the following sections take effect on July 1, 2020:

1049 (a) Section 10-8-47 (Effective 07/01/20);

1050 (b) Section 76-10-104 (Effective 07/01/20);

- 1051 (c) Section [76-10-105](#) (Effective 07/01/20);
- 1052 (d) Section [76-10-105.1](#) (Effective 07/01/20); and
- 1053 (e) Section [77-39-101](#) (Effective 07/01/20).